

**Policy for the granting of Mandatory  
and Discretionary Non-Domestic Rate  
Relief**

## Version Control

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## **1.0 Purpose of the Policy**

- 1.1 The purpose of this policy is to determine the level of relief to be granted to certain defined ratepayers within the Council's area.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 Further guidance has also been received from Central Government in respect of the granting of relief for:
- Unoccupied new structures (from 1<sup>st</sup> October 2013);
  - Retail relief (£1000) (from 1<sup>st</sup> April 2014); and
  - Retail reoccupation relief (from 1<sup>st</sup> April 2014).
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief to ratepayers subject to certain criteria being met. In the case of new reliefs, guidance has been issued by Central Government outlining actions expected to be taken by local authorities.
- 1.5 Full details of the legislative requirements for both mandatory and discretionary relief are given within the following sections of this report.
- 1.6 This document also outlines the following areas:
- Details of the criteria for receiving Discretionary Relief for all relevant areas;
  - The Council's policy for granting of all types of Discretionary Relief;
  - Guidance on granting and administering the relief;
  - European Union requirements including provisions for State Aid; and
  - The Scheme of Delegation.
- 1.7 This policy covers all aspects of discretionary rate relief (subject to changes in legislation). Where organisations apply for relief they will be granted (or not granted) relief in line with the following policy.

## **2.0 Mandatory Relief - Legislative Background**

### **Charity Relief**

- 2.1 The powers relating to the granting of mandatory<sup>1</sup> and discretionary relief are given to the Council under the Local Government Finance Act 1988<sup>2</sup>. Charities and Trustees for Charities are only liable to pay one fifth of the Non Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has recently been extended under the Local Government Act 2003 (effective from 1<sup>st</sup> April 2004) to registered Community Amateur Sports Clubs (CASCs).
- 2.2 The Council has discretion to grant relief of up to a further 20% for these cases under the discretionary provisions.

### **Rural Rate Relief**

- 2.3 From 1<sup>st</sup> April 1998, under powers originally granted to the Council under the Local Government and Rating Act 1997<sup>3</sup>, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the village, provided it has a Rateable Value of up to £8500; any food shop with a Rateable Value of up to £8500; and the sole pub and the sole petrol station in the village provided it has a Rateable Value of up to £12500.
- 2.4 The Council has discretion to grant up to a further 50% relief of the remaining rates on such property.
- 2.5 In addition to this the Council may decide to give up to 100 per cent relief to any other business (not in receipt of mandatory relief) in such a rural settlement, with a Rateable Value of up to £16,500, if it is satisfied that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.
- 2.6 The Council has no rural settlements within its area.

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<sup>1</sup> S43 & S45 Local Government Finance Act 1988

<sup>2</sup> S47 & S48 Local Government Finance Act 1988

<sup>3</sup> LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997

## 3.0 Discretionary Relief – Legislative Background

### Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to ‘top’ up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide assistance to businesses and organisations. Recent announcements by Central Government have also allowed for relief:
- to be targeted to certain business ratepayers;
  - to encourage building of business premises even though the developer may not be able to sell or let the premises immediately;
  - to alleviate the effects of the recession; and
  - to encourage the use of retail premises which have been unoccupied for a period of time.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council.
- 3.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities of the area. There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review.
- 3.6 Granting of the relief falls broadly into the following categories:
- a. Discretionary Relief – Charities who already receive mandatory relief.
  - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
  - c. Discretionary Relief – Premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
  - d. Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief (not applicable to the Council);
  - e. Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV.(not applicable to the Council);
  - f. Discretionary Relief – Granted under the Localism Act 2011 provisions
  - g. Discretionary Relief – Unoccupied New Structures (available from 1<sup>st</sup> October 2013);
  - h. Discretionary Relief - Retail relief (available from 1<sup>st</sup> April 2014);
  - i. Discretionary Relief - Reoccupation Relief (available from 1<sup>st</sup> April 2014).
- 3.7 The decision to grant or not to grant relief is a matter purely for the Council although the

general principles are a matter of concern to Central Government and in the case of e., f., and g. above, Central Government has provided specific guidance and finance.

## 4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in all circumstances, involve a cost to the Council. Since the change to the funding for Non Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1<sup>st</sup> April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. Any amounts granted for similar cases after 1<sup>st</sup> April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government and 40% by the Council. The remaining cost is borne by the major Precepting authorities.
- 4.3 The new areas for relief namely;
- Discretionary Relief – Unoccupied New Structures (available from 1<sup>st</sup> October 2013);
  - Discretionary Relief - Retail relief (available from 1<sup>st</sup> April 2014);
  - Discretionary Relief - Reoccupation Relief (available from 1<sup>st</sup> April 2014).
- are to be financed wholly by Central Government by direct grant under Section 31 of the Local Government Act 2003. A summary of the financial situation is given below.

	Relief Type	Granted after 1 <sup>st</sup> April 2013
	<b>Charity Relief</b>	
a.	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
b.	Non profit Making Organisations	40% borne by the Council
c.	Sports Clubs and societies	40% borne by the Council
	<b>Rural Rate Relief</b>	
d.	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
e.	Other premises within a rural settlement under £16500 RV	40% borne by the Council
	<b>Localism</b>	
f.	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	<b>Unoccupied New Structures</b>	
g.	Granted after 1 <sup>st</sup> October 2013	Funded in full by Central Government under S31 Local Government Act 2003
	<b>Retail Relief</b>	
h.	Granted after 1 <sup>st</sup> April 2014	Funded in full by Central Government under S31 Local Government Act 2003
	<b>Re-occupation Relief</b>	
i.	Granted after 1 <sup>st</sup> April 2014	Funded in full by Central Government under S31 Local Government Act 2003

## 5.0 Charity Relief – Mandatory Relief recipients

### General Explanation

- 5.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- 5.2 The legislation has been amended by the Local Government Act 2003 (effective from 1<sup>st</sup> April 2004) to include registered<sup>4</sup> Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

### Charity registration

- 5.3 Charities are defined within the legislation as being an institution<sup>5</sup> or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- 5.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation<sup>6</sup>, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
  - trusts for the advancement of religion;
  - trusts for the advancement of education; and
  - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- 5.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
  - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974 ;
  - units of the Boy Scouts Association or the Girl Guides Association; and
  - voluntary schools within the meaning of the Education Acts of 1944 to 1980
- 5.6 The Council would consider charitable organisations, registered or not, for mandatory relief.

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<sup>4</sup> Registered with HMRC as a CASC

<sup>5</sup> S67(10) Local Government Finance Act 1988

<sup>6</sup> Income Tax Special Commissioners v Pemsell (1891)



## **Use of Premises – wholly or mainly used**

- 5.7 Irrespective of whether an organisation is registered as a charity or not, the premises must be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection but on occasions the Council has had to question the actual use to which the premises are to be put.
- 5.8 Guidance from the Department of Communities and Local Government (DCLG) has stated that in the case of ‘mainly’, at least 51% must be used for charitable purposes whether of that charity or of that and other charities
- 5.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which could be equally considered for discretionary rate relief.

## **Offices, administration and similar premises**

- 5.10 Premises used for administration of the Charity including:
- Offices
  - Meeting Rooms
  - Conference Rooms

## **Charity shops**

- 5.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64(10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.
- 5.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by staff when an application is received

## **Charity Relief – Mandatory Relief recipients, the Council’s Policy**

- 5.13 Organisations already in receipt of mandatory relief such as;
- Charity Offices
  - Community Centres, Village Halls
  - Cultural Organisations
  - General Welfare Groups
  - Scouts, Guides, Youth Clubs,
- currently receive an additional 20% discretionary relief (currently Classified by the Council as Group A recipients)<sup>7</sup>
- 5.14 Any Community Amateur Sports Clubs (CASC) that apply are currently granted either 5%

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<sup>7</sup> Discretionary rate relief application and guidelines for qualifying organisations 2011 onwards – Cabinet 16<sup>th</sup> March 2011.  
Tamworth Borough Council – Policy for granting Mandatory and Discretionary Rate Relief

or 10% discretionary relief (currently Classified by the Council as Group B (i) recipients)<sup>8</sup>

- 5.15 Charity shops or educational establishments that receive mandatory relief, current receive no additional assistance through the discretionary relief scheme (currently Classified by the Council as Group C recipients)<sup>9</sup>
- 5.16 A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made
- 5.17 A fresh application for discretionary relief will be necessary for each financial year.

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<sup>8</sup> Discretionary rate relief application and guidelines for qualifying organisations 2011 onwards – Cabinet 16<sup>th</sup> March 2011.

## 6.0 Discretionary Relief – Non Profit Making Organisations including Recreation

### General explanation

#### Non-Profit

- 6.1 The legislation<sup>10</sup> allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations 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.
- 6.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- 6.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.<sup>11</sup>

#### Recreation Clubs

- 6.4 Ideally all recreation clubs should be encouraged to apply for CASC status, which would automatically entitle them to 80% relief.
- 6.5 Recreation Clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- a. The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
  - b. The advancement of the physical education of young people not undergoing formal education.
- 6.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

### Definition of Recreation

- 6.7 Recreation is clearly defined by the Sports Council as any of the following<sup>12</sup>

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<sup>10</sup> S47 Local Government Finance Act 1988

<sup>11</sup> National Deposit Friendly Society v Skegness Urban District Council (1958)<sup>1</sup> and Guinness Trust (London Fund) v West Ham County Borough Council (1959)

<sup>12</sup> Definition last reviewed by Sport England in 2002

Aikido	Croquet	Kabaddi	Real Tennis	Tang Soo Do
American Football	Crossbow	Karate	Roller Hockey	Tenpin
Angling	Curling	Kendo	Roller Skating	Bowling
Archery	Cycling	Korfball	Rounders	Trampolineing
Arm Wrestling	Disability Sport	Lacrosse	Rowing	Triathlon
Association Football	Dragon Boat Racing	Lawn Tennis	Rugby League	Tug of War
Athletics	Equestrian	Life Saving	Rugby Union	Unihoc
Australian Rules Football	Fencing	Luge	Sailing	Volleyball
Badminton	Fives	Modern Pentathlon	Sand/Land Yachting	Water Skiing
Ballooning	Flying	Motor Cycling	Shinty	Weightlifting
Baseball	Gaelic Football	Motor Sports	Shooting	Wrestling
Basketball	Gliding	Mountaineering	Skateboarding	Yoga
Baton Twirling	Golf	Movement, Dance, Exercise & Fitness	Skiing	
Biathlon	Gymnastics	Netball	Snowboarding	
Bicycle Polo	Handball	Orienteering	Softball	
Billiards and Snooker	Hang/Para Gliding	Parachuting	Sombo Wrestling	
Bobsleigh	Highland Games	Petanque	Squash	
Boccia	Hockey	Polo	Skater/Street Hockey	
Bowls	Horse Racing	Pony Trekking	Sub-Aqua	
Boxing	Hovering	Pool	Surf Life Saving	
Camogie	Hurling	Quoits	Surfing	
Canoeing	Ice Hockey	Racketball	Swimming & Diving	
Caving	Ice Skating	Rackets	Table Tennis	
Chinese Martial Arts	Jet Skiing	Raquetball	Taekwondo	
Cricket	Ju Jitsu	Rambling		
	Judo			

## Access to clubs

- 6.8 Guidance issued by the DCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.
- 6.9 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.
- 6.10 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- 6.11 The Council also asks the following question to help establish the level of access 'Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities' etc?' – Where an organisation encourages such membership, the Council looks more sympathetically at their application. Likewise where facilities are made available to people other than members e.g. schools, casual public sessions etc. the

Council will generally grant relief.

### **Provision of facilities**

- 6.12 Clubs which provide training or education are encouraged as are those who provide schemes for particular groups to develop their skills e.g. young people, the disabled, retired people.
- 6.13 A number of organisations run a bar. The mere existence of a bar should not in itself be a reason for not granting relief. However the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members. Likewise the level of bar profits is considered to be a gauge of how much relief should be given and the need for assistance.
- 6.14 Within this area the Council also considers whether the facilities provided relieve the Council of the need to do so, or enhance and supplement those that it does provide.

### **Discretionary Relief - Non-Profit Organisations including Recreation – the Council's Policy**

- 6.15 Applications will be considered from non-profit making organisations, which can demonstrate the following:
- a. That the activities of the organisation are consistent with the Council's core values and priorities;
  - b. That they are non-profit making associations, groups, clubs which are accessible to all potential users, possess a representative management group and are clearly accountable to users, beneficiaries and members (e.g. evidence of constitution, GM, membership and/or participation are required);
  - c. That the membership comprises mainly residents of Tamworth or that activities are of direct benefit to residents of Tamworth;
- 6.16 When making decisions on the applicability of awarding discretionary rate relief the Council takes into consideration the ability of the applicant to:
- generate funds from it's activities (e.g. bar trading); and
  - utilise its current assets to obtain funds/funding; and
- 6.17 Currently these organisations fall within Group B (ii) of the Council's policy and receive either 25% or 50% depending on individual circumstances.
- 6.18 A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made.
- 6.19 A fresh application for discretionary relief will be necessary for each financial year.

## 7.0 Discretionary Relief – Localism Act 2011

### General explanation

- 7.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Tax payers of its area.
- 7.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Tax payers.

### Discretionary Relief – Localism – the Council’s Policy

- 7.3 Applications will be considered from any ratepayer who wishes to apply however, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- 7.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non profit making organisations or rural premises) must meet **all** of the following criteria and the amount of relief granted will be dependant on the following key factors:
- a. The ratepayer **must not** be entitled to mandatory rate relief (Charity or Rural Rate Relief);
  - b. The ratepayer **must not** be an organisation that could receive relief as a non profit making organisation or as a sports club or similar;
  - c. The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
  - d. The premises and organisation **must** be of *significant* benefit to residents of the Council;
  - e. The premises and organisation **must** relieve the Council of providing similar facilities;
  - f. The ratepayer **must**;
    - a. Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; **or**
    - b. Provide *significant* employment or employment opportunities to residents of the Borough; **or**
    - c. Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;
  - g. The ratepayer **must** demonstrate that assistance (provided by the discretionary rate relief) will be for a *short time only* **and** that any business / operation is financially viable in the medium and long term; **and**
  - h. The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.
- 7.5 Where a ratepayer can demonstrate that **all** of the above criteria are met, relief will be

considered for a period of one year.

- 7.6 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.

## 8.0 Discretionary Relief – Unoccupied New Structures

### General explanation

- 8.1 Central Government announced in December 2012 that, it would exempt all newly built unoccupied commercial property completed between 1st October 2013 and 30th September 2016 from empty property rates for the first 18 months, up to the state aids limits.
- 8.2 As this is a temporary measure, the Government are not changing the rules on when a property becomes liable for empty property rates (which would be charged at 100%). Instead they are providing the exemption by reimbursing local authorities that use their discretionary relief powers (under section 47 of the Local Government Finance Act 1988) to grant relief in prescribed circumstances.
- 8.3 It will be for the Council to decide to grant relief under section 47 but Central Government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under s31 of the Local Government Act 2003) based on outturn of relief granted in the circumstances specified. Through this mechanism, central government will guarantee to reimburse local within the rates retention system.
- 8.4 In order to receive the relief, the premises will be all unoccupied non-domestic properties that are **wholly or mainly** comprised of qualifying **new structures**.
- ‘Structures’ means:
- a) foundations ;and/or
  - b) permanent walls; and/ or
  - c) permanent roofs.
- The definition of ‘new’ means;
- a. Completed less that 18 months previously; and
  - b. Completed after 1<sup>st</sup> October 2013 and before 30<sup>th</sup> September 2016.
- 8.5 New structures are to be considered completed when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed unless a completion notice has been served in respect of such a building or part of a building – in which case it would be the date specified in that notice.
- 8.6 The relief runs with the property rather than the owner so subsequent owners may also qualify.
- 8.7 In all cases the relief will be subject to State Aid requirements as mentioned later in this policy.
- 8.8 In all cases, an inspection of the premises shall be made by an officer of the Council, prior to granting any relief



## **Discretionary Relief – Unoccupied New Structures – the Council’s Policy.**

- 8.9 The relief is designed to provide an incentive to owners, developers etc. to build new non-domestic premises without the fear of facing unoccupied property rate charges. Central Government is also prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying new structures.
- 8.10 An application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.
- 8.11 This exemption is available for unoccupied new structures that were completed between 1<sup>st</sup> October 2013 and 30<sup>th</sup> September 2016 and will be granted for a period of 18 months to include existing empty property exempt periods.

## 9.0 Discretionary Relief – Retail Relief

### General explanation

9.1 The Government announced in the Autumn Statement in December 2013 that it would allow for a relief of up to £1000 to all **occupied** retail properties with a rateable value of £50,000 or less in each of the years 2014/15 and 2015/16.

9.2 As this is a temporary measure only, the Government is not changing the legislation around the reliefs available to properties. Instead local authorities will use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. It will be for individual authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47.

9.3 Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).

9.4 The Government expects local government to grant relief to qualifying ratepayers.

9.5 Properties that will benefit from the relief will be occupied properties with a rateable value of £50,000 or less that are **wholly or mainly** being used as:

- Shops;
- Restaurants;
- Cafes; and
- Drinking establishments

9.6 This policy will follow Government guidance that considers shops, restaurants, cafes and drinking establishments to mean:

**i. Properties that are being used for the sale of goods to visiting members of the public:**

- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc.)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/ caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

**ii. Properties that are being used for the provision of the following services to visiting members of the public:**

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning

- shops, etc)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- DVD/ video rentals
- Tool hire
- Car hire

**iii. Properties that are being used for the sale of food and/ or drink to visiting members of the public:**

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

9.7 To qualify for the relief the property should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, properties which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

9.8 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it will be used as a guide as to the types of uses that government considers for this purpose to be retail. Properties not listed above which are broadly similar in nature to those above will be considered for the relief. Conversely, properties that are not broadly similar in nature to those listed above would not be eligible for the relief.

9.9 The list below sets out the types of uses that government does not consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

**i. Properties that are being used for the provision of the following services to visiting members of the public:**

- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
- Post office sorting office

**ii. Properties that are not reasonably accessible to visiting members of the public**

9.10 Central Government guidance gives a range of premises that may benefit from the relief and the Council will use this when deciding entitlement. It is acknowledged that this is guidance and each application will be looked at on its own merits.

9.11 The total amount of relief available for each eligible property for each of the years under this scheme is up to £1000. The amounts will not vary with rateable value and there is no taper. There is no relief available under this scheme for properties with a rateable value of more than £50,000. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis for each day of occupation. It will be granted after the application of any other relief, which may be applicable and also be granted for all properties meeting the criteria.

9.12 Any amounts granted will be subject to State Aid requirements.

### **Discretionary Relief – Retail Relief – the Council’s Policy.**

9.13 The relief is designed primarily to assist businesses during the recession. Central Government is prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying premises.

9.14 An application from the ratepayer will be required in each case.

9.15 This relief will only be available during the financial years 2014/15 and 2015/16

## 10.0 Discretionary Relief – Reoccupation Relief

### General explanation

- 10.1 Central Government intends to introduce a 50% discount from non-domestic rates for new occupations of previously empty retail premises. The discount will last for 18 months and be available from 1<sup>st</sup> April 2014 until 31<sup>st</sup> March 2016.
- 10.2 **Guidance has yet to be issued by Central Government**  
It is expected that there will be no restrictions based on the type or size of business, which takes on the property.  
It is anticipated that previously empty retail premises will need to have been unoccupied for at least twelve months and would include premises, which were used for:
- a. The sale of goods to visiting members of the public; and/or
  - b. The provision of services to visiting members of the public.
- This will be updated as soon as the Government publishes guidance**
- 10.3 As this is a temporary measure only, the Government is not changing the legislation around the reliefs available to properties. Instead local authorities will use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. It will be for individual authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47.
- 10.4 Central Government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).
- 10.5 The Government expects Local Government to grant relief to qualifying ratepayers.
- 10.6 Any amounts granted will be subject to State Aid requirements.

### Discretionary Relief – Retail Relief – the Council’s Policy.

- 10.7 The relief is designed primarily to assist businesses during the recession and particularly in this case, to encourage the re-occupation of vacant retail premises. Central Government is prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying premises.
- 10.8 An application from the ratepayer will be required in each case.
- 10.9 This relief will be available for a maximum of 18 months between 1<sup>st</sup> April 2014 and 31<sup>st</sup> March 2016 and will not be allowable for any period after 31<sup>st</sup> March 2016.

## 11.0 Discretionary Relief – EU State Aid requirements

- 11.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 11.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 11.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)<sup>13</sup>. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years).
- 11.4 Where the relief to any one business is greater than the De Minimis level then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the DCLG for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 11.5 In all cases, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

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<sup>13</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

## 12.0 Administration of Discretionary Relief

12.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief. This is essentially laid down by legislation<sup>14</sup>

### Applications and Evidence

12.2 Discretionary rate relief must be applied for in writing by the ratepayer. Application forms are produced within the Council and issued to all ratepayers requesting the relief.

12.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, despite reminders, then no relief will be granted.

### Granting of relief

12.4 In all cases, the Council will notify the ratepayer of decisions made.

12.5 Where an application is successful, then the following is notified to them in writing:

- The amount of relief granted and the date from which it has been granted;
- If relief has been granted for a specified period, the date on which it will end;
- The new chargeable amount;
- The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
- A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.

12.6 Where relief is not granted then the following information is provided, again in writing:

- An explanation of the decision within the context of the Council's statutory duty; and
- An explanation of the appeal rights (see below).

12.7 Relief is to be granted from the beginning of the financial year in which the decision is made. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. Where the relief is only available for a limited period as defined by Central Government then it will only be granted for that period.

12.8 A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made.

12.9 A fresh application for discretionary relief will be necessary for each financial year.

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<sup>14</sup> The Non-Domestic Rating (Discretionary Relief) Regulations 1989

## **Variation of a decision**

- 12.10 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge – from the date of the increase in rate charge;
  - Where the amount is to increase for any other reason (other than a general termination of relief under Central Government guidelines)– takes effect at the expiry of a financial year, and so that at least one year’s notice is given;
  - Where the amount is to be reduced due to a reduction in the rate charge – from the date of the decrease in rate charge;
  - Where the amount is to be reduced for any other reason (other than a general termination of relief under Central Government guidelines) – takes effect at the expiry of a financial year, and so that at least one year’s notice is given
- 12.11 A decision may be revoked at any time and the change will take effect at the expiry of a financial year (other than a general termination of relief under Central Government guidelines).



## **13.0 Scheme of Delegation**

### **Granting, Varying, Reviewing and Revocation of Relief**

- 13.1 Under powers given to the Council by section 223 of the Local Government Act 1992, all permissions for the granting, varying, reviewing and revocation of discretionary relief given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011 be delegated to the Head of Revenues.
- 13.2 The method of administration shall be that laid down within this policy document. The level of the discretionary relief shall be calculated in accordance with guidance given within this policy and determined by the Head of Revenues.
- 13.3 The policy for granting relief will be reviewed where there is a substantial change to the legislation or funding rules. At such time a revised policy will be brought before the relevant committee of the Council.
- 13.4 The amount of funding to be provided by the Council in respect of discretionary relief granted shall be determined by the S151 Officer and approved by Council in the normal budgeting process.

### **Appeals**

- 13.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or amount of any discretionary relief, in line with DCLG guidelines, the case will initially be reviewed by the Head of Revenues in conjunction with the s151 Officer. Where a decision is revised then the ratepayer shall be informed likewise if the original decision is upheld.