

# Discretionary Rate Relief Policy

## 1 Introduction

If an organisation occupies a property on which it pays National Non Domestic Rates (NNDR) it may be eligible for up to 100% Discretionary Rate Relief if it is operated within some or all of the following guidelines appropriate to the particular organisation.

The guidelines for determining relief are not intended to be a rigid set of rules; neither are all the guidelines applicable to every organisation. Each case will be judged on its merits taking into account the contribution which each organisation/business makes to the Districts amenities and its residents lifestyles and wellbeing.

## 2 Qualifying Property

<b>Property Eligible for Rate Relief</b>	<b>Rate Relief</b>	<b>Amount of Relief</b>
Property wholly or mainly used for charitable purposes which is occupied by a registered charity, charity shop or registered Community Amateur Sports Club (CASC)	Mandatory	80%
	Discretionary	20% (maximum)
Property is a qualifying: Food Shop General Store Post Office Sole Public House Sole Petrol Filling Station	Mandatory	50%
	Discretionary	50%(maximum)
Property, all or part of which is occupied for the purposes of a non-profit making:  a) Institution or other organisation whose main objects are philanthropic or religious or concerned with social welfare, science, literature or the fine arts.  b) Club ,society or other organisation and is used for the purposes of recreation	Discretionary	100%(maximum)

## 3 Scope

The policy will be adhered to by all staff and members involved with consideration of Discretionary Rate Relief applications.

#### **4 Applications**

Applications must be supported by the organisations constitution, main purposes and objectives e.g. written constitution, memorandum of association, membership rules etc.

A full set of audited accounts for the latest financial year at the application date.

Details of how organisations/ businesses meet the criteria within the guidelines.

Applications from excepted businesses/organisations can not be considered. These are properties which are occupied by a billing or precepting authority e.g. District Council. County Council.

#### **5 Period of Relief**

Relief will be granted for one year at a time

The granting of relief will be reviewed annually and those in receipt of relief will be asked to supply or confirm relevant information for the purposes of the review.

#### **6 Approval**

Initial recommendations are to be made by the Revenues Manager or Team Leader Business Rates with final approval from the Section 151 Officer, Revenues & Benefits Manager and the Cabinet Portfolio holder.

Applicants will be notified in writing of any decision whether they are successful or not. A revised bill will be sent where appropriate. There is no time limit for applications to be made in cases of discretionary relief, authorities must determine applications within six months after the end of the financial year for which the application for relief is made. Determinations after this time are invalid.

If a decision is not made on an application until more than 6months after the end of the financial year in respect of which the application is made, the decision is invalid.

#### **7 Legal Powers**

Relief is granted in accordance with

Section 43 of the Local Government Finance Act (LGFA) 1988

Section 47-49 LGFA 1988

Local Government and Rating Act 1997

Rating(Former Agricultural Premises and Rural Shops)Act 2001

NDR (Public Houses and Petrol Filling Stations) (England) Order 2001

As appropriate

## **8 Costs to the Council**

### **Discretionary Rate Relief Cost Apportionment**

	<b>National Pool</b>	<b>NNDC</b>
Charitable Bodies top up Relief'	25%	75%
Community Amateur Sports Club (CASC)	25%	75%
Rural Settlement top up relief	75%	25%
Non Profit Making Organisations e.g. sports & social Clubs,	75%	25%
Hardship Discretionary Relief	75%	25%

## **9 Rights of Appeal**

Unsuccessful applicants should, in the first instance put in writing their reasons for not agreeing with any decision to the Revenues & Benefits Manager. If they remain aggrieved following the response to this 'first' appeal they should write to the Revenues & Benefits Manager who will arrange for their case to be brought before the NNDC Judicial Board

If the applicant is still aggrieved they would be required to submit the relevant details to the High Court for a Judicial Review.

March 2009

## **Guidelines - Discretionary Rate Relief**

There are two ways in which Discretionary rate relief is granted

- a) To 'top-up' mandatory relief already awarded
- b) To award up to 100% based on various criteria

**Mandatory Relief** is granted where:-

- the ratepayer of a property is a charity or the trustees of a charity and
- the property is wholly/mainly used for charitable purposes (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purposes of the charity)
- the ratepayer of a property is registered with Her Majesty's Revenues and Customs (HMRC) as a Community Amateur Sports Club (CASC)

or

in the case of Mandatory Rural Rate Relief, the property is a qualifying:-

- food shop
  - general store
  - post office
  - public house
  - petrol filling station
- (See Appendix 1 for detail)

Registration under the Charities Act 1993 as amended is conclusive evidence of charitable status. Bodies which, under the 1993 Act, are exempted from registration or are exempt charities are also eligible for mandatory relief. Providing the above criteria are met 80% mandatory relief will be granted.

### **Discretionary Rate Relief**

The Council has the discretion to award up to a further 20% additional rate relief to reduce the liability still further and the policies detailed below are to be followed when dealing with an application.

When deciding whether to award discretionary rate relief consideration should be given to the interests of the taxpayers of North Norfolk District Council, as the council must bear a percentage of the cost of any relief granted the remainder is borne by the Non-Domestic Rating Pool.

### **Discretionary Rate Relief Cost Apportionment**

	<b>National Pool</b>	<b>NNDC</b>
Charitable Bodies top up Relief'	25%	75%
CASC	25%	75%
Rural Settlement top up relief	75%	25%
Non Profit Making Organisations Sports & social Clubs,	75%	25%

The guidelines for determining relief are not intended to be a rigid set of rules; neither are all the guidelines applicable to every organisation. Each case will be judged on its merits taking into account the contribution which each organisation/business makes to the Districts amenities and its residents lifestyles and wellbeing.

Those organisations applying for relief, whose work involves young children, young people or vulnerable adults must be able to demonstrate that appropriate checks have been carried out on staff and volunteers, and that sound child protection policies are in place.

**Discretionary Rate Relief Criteria ‘Top –Up’**

Up to 20% Discretionary Rate Relief may be given.

**Charity Shops**

Mandatory relief will be granted where the ratepayer for a property is

- a charity or the trustees of a charity and
- donated goods relate to more than 50% of total sales and
- the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity

Providing the above criteria are met 80% mandatory relief will be granted.

Up to 20% Discretionary Rate Relief may be given in exceptional circumstances. Generally relief will be limited to the 80% mandatory entitlement.

1	Meets local needs in the district and benefits local people	<ul style="list-style-type: none"> <li>• if the premises are used for the purposes of a national organisation or a semi-national (or county-wide) organisation the Council will not normally grant any discretionary relief</li> <li>• if the premises are used for a local organisation the extent to which the District and its residents benefit from the organisation will be taken into account.</li> </ul>
2	As a guide does not have more than 12 months spending available as “free reserves” (not legally restricted)	<ul style="list-style-type: none"> <li>• unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community</li> </ul>

### **Non-Profit Organisations, Clubs and Societies**

The Council has the discretion to award up to 100% Discretionary Rate Relief to organisations whose main objects are charitable or philanthropic, or concerned with education, social welfare, science, literature or fine arts or recreation. The determination of charitable status largely relies on case law which has established 4 main divisions of charity:-

- relief of poverty
- advancement of religion
- advancement of education and
- other trusts beneficial to the community and not falling under the other headings.

### **Criteria**

Discretionary relief can only be awarded if the organisation is not excepted (a billing authority or precepting authority) and:-

1	The main objects of the organisation are concerned with	<ul style="list-style-type: none"><li>• relief of poverty</li><li>• advancement of religion</li><li>• advancement of education</li><li>• social welfare</li><li>• science</li><li>• literature</li><li>• fine arts or</li><li>• recreation or</li><li>• in other ways are beneficial to the community</li></ul>
2	Meets local needs in the district and benefits local people	<ul style="list-style-type: none"><li>• if the premises are used for the purposes of a national organisation or a semi-national (or county-wide) organisation the Council will not normally grant any discretionary relief</li><li>• if the premises are used for a local organisation the extent to which the District and its residents benefit from the organisation will be taken into account.</li></ul>
3	Provides a valuable service to the community	<ul style="list-style-type: none"><li>• which is complimentary to those services provided by or supported by the Council or</li><li>• which relieves the need for the Council to provide such services</li></ul>
4	Is open to all sections of the community	<ul style="list-style-type: none"><li>• or access is restricted by providing a service for a specific sector of the community for justifiable</li></ul>

		reasons such as addressing inequality
5	Is able to demonstrate that the way in which it operates does not discriminate against any section of the community	<ul style="list-style-type: none"> <li>• please see (1) below</li> </ul>
6	Is non-profit making	<ul style="list-style-type: none"> <li>• as a guide, no more than 12 months expenditure in unrestricted reserves unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community</li> </ul>
7	If the organisation has licensed bar facilities	<ul style="list-style-type: none"> <li>• please see (2)below</li> </ul>
8	If the organisation requires a membership or entry fee-	<ul style="list-style-type: none"> <li>• please see (3) below</li> </ul>

### **(1) Discrimination**

In order to qualify for Discretionary Rate Relief clubs must be able to show that all facilities are available to members without discrimination.

Discrimination includes indirect discrimination and encompasses:-

- Discrimination on grounds of ethnicity, nationality, sexual orientation, religion or beliefs
- Discrimination on grounds of sex, age or disability, (except as a necessary consequence of the requirements of a particular sport)

This does not prevent a club from having different classes of membership depending on:-

- The age of the member
- Whether the member is a student
- Whether the member is waged or unwaged
- Whether the member is a playing or a non-playing member
- How far from the club the member lives or
- Any restriction on the days or times when the member has access to the club's facilities

### **Sports Clubs**

There are additional considerations in the case of sports clubs.

If a club effectively discriminates by only accepting members who have already reached a certain standard, rather than seeking to promote the attainment of excellence by enhancing access and the development of sporting aptitude, then it does not have an open membership policy. So, a club selecting members on the basis of existing attainment would not come within the requirements.

Although clubs should be open to all without discrimination, single sex clubs may be permitted where such restrictions are not discriminatory in intent but a

genuine result of physical restraints (such as changing room facilities) or the requirements of the sport

## **(2) Organisations with Licensed Bar Facilities**

### **Sports Clubs/Other Organisations**

Any Discretionary Rate Relief award will be aimed at the sporting activity of the club.

- If the bar income aids the overall operation and development of the organisation this would be allowable as long as the sporting activity remains the overall objective of the organisation. This will be particularly relevant where the organisation is the only such one in the Parish.

### **(3) Membership and Entry Fees**

If the organisation requires a membership or entry fee the Council will give regard as to whether:-

- The subscription or fees are set at a high level which excludes the general community
- Fee reductions are offered for certain groups such as under 18s or over 60s
- Membership is encouraged from particular groups such as young people, older age groups, persons with disabilities or ethnic minorities
- Facilities are available to people other than members, eg schools, public sessions
- 75% of the Clubs/organisations members should reside in North Norfolk.

Where the Council gives relief practice has been to award up to 80% to Clubs and organisations and up to 50% where organisations operate bar facilities.

### **Community Amateur Sports Clubs (CASC)**

If a sport's club is registered with HM Revenues and Customs (HMRC) as a CASC it will be entitled to 80% mandatory relief. The club may also be awarded 20% discretionary rate relief.

Normally sports clubs that can register with HM Revenues & Customs as a CASC and have not done so will not be awarded discretionary rate relief.

Details can be found on the HMRC website [www.hmrc.gov.uk/casc/index.htm](http://www.hmrc.gov.uk/casc/index.htm)

## **Rural Rate Relief - Discretionary**

Rural Rate Relief applies to certain properties which are situated in a rural settlement. A rural settlement is one which appears to have a population of not more than 3,000 on the 31<sup>st</sup> December preceding the financial year in question, which is wholly or partly within a designated area. The Rural Settlement list is published each year.

See Appendix 1 for information for details of Mandatory Relief – Rural Rate Relief.

### **Sole - General Store/Post Office/Food Shops with a Rateable Value of £7,000 or less.**

If the above business meets the criteria for mandatory relief (50%) under the Rural Rate Relief legislation then an application for discretionary rate relief can be considered.

Up to 50% Discretionary Rate Relief may be given

#### Criteria

- as a guide, no more than 12 months expenditure in unrestricted reserves unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community
- The business must be considered to be of benefit to the local community in accordance with the criteria in the policy.

### **Sole - Public Houses/ Petrol Filling Stations Rateable Value of £10,500 or less**

If the above business meets the criteria for mandatory relief (50%) under the Rural Rate Relief legislation then an application for discretionary rate relief can be considered.

Up to 50% Discretionary Rate Relief may be given

#### Criteria

- as a guide, no more than 12 months expenditure in unrestricted reserves unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community
- The business must be considered to be of benefit to the local community in accordance with the criteria in the policy.

### **Any Other Business within a Rural Settlement**

Up to 100% Discretionary Rural Rate Relief may be given

#### Criteria

- Rateable Value above £7,000 and less than £14,000
- as a guide, no more than 12 months expenditure in unrestricted reserves unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community

- The business must be considered to be of benefit to the local community in accordance with the criteria in the policy.

April 2009

## **Mandatory Rural Rate Relief**

### **Rural Rate Relief**

Rural Rate Relief applies to certain properties which are situated in a rural settlement. A rural settlement is one which appears to have a population of not more than 3,000 on the 31<sup>st</sup> December preceding the financial year in question, which is wholly or partly within a designated area. The Rural Settlement list is published each year.

### **Food Shops**

Criteria for Mandatory Relief of 50%

- Rateable Value of £7,000 or less
- Selling food which is wholly/mainly for human consumption
- Excluding confectionery and the supply of food in the course of catering (this excludes businesses such as restaurants, cafes and take-aways)

### **General Stores**

Criteria for Mandatory Relief of 50%

- Rateable Value of £7,000 or less
- Selling food which is wholly/mainly for human consumption (excluding confectionery) and general household goods
- It is the only such business within the rural settlement area

### **Post Offices**

Criteria for Mandatory Relief of 50%

- Rateable Value of £7,000 or less
- Used for the purpose of a Post Office
- Holding a licence under the Post Office Act 1953
- It is the only such business within the rural settlement area

### **Public Houses**

Criteria for Mandatory Relief of 50%

- Rateable Value of £10,500 or less
- With a premises licence granted in accordance with the Licensing Act 2003
- Which authorises the retail sale of alcohol
- for consumption on the premises and
- the sales are not made on the condition that buyers reside at or consume food on the premises
- It is the only such business within the rural settlement area

## **Petrol Filling Stations**

Criteria for Mandatory Relief of 50%

- Rateable Value of £10,500 or less
- Sells petrol and/or other automotive fuel
- to the public
- for use in motor vehicles intended or adapted for use on roads
- It is the only such business within the rural settlement area

April 2009