

# **North Devon Council Policy for the granting of Discretionary Non-Domestic Rate Relief**

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## Version Control

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## Contents

1.0	Purpose of the Policy .....	6
2.0	Mandatory Relief - Legislative Background .....	7
	Charity Relief .....	7
	Rural Rate Relief .....	7
3.0	Discretionary Relief – Legislative Background .....	9
	Introduction .....	9
	The Council's general approach to granting Discretionary Relief .....	10
	The Council's approach to granting Government led Discretionary Relief schemes .....	11
4.0	Effect on the Council's Finances .....	12
5.0	Discretionary Relief – EU State Aid requirements .....	14
6.0	Administration of Discretionary Relief .....	15
	Applications and Evidence .....	15
	Granting of relief .....	15
	Variation of a decision .....	16
7.0	Scheme of Delegation .....	17
	Granting, Varying, Reviewing and Revocation of Relief .....	17
	Reviews .....	17
	Appeals .....	17
8.0	Reporting changes in circumstances .....	18
9.0	Fraud .....	18
	Appendix A .....	19
	Discretionary Relief – Mandatory Relief recipients .....	19
	General Explanation .....	20
	Charity registration .....	20
	Use of Premises – wholly or mainly used .....	21
	Offices, administration and similar premises .....	21
	Charity shops .....	21
	Granting of Mandatory Relief - the Council's Policy .....	21
	Appendix B .....	23
	Discretionary Relief – Non-Profit Making Organisations including Recreation .....	23
	General explanation .....	24
	Access to clubs .....	25
	Provision of facilities .....	25
	Discretionary Relief - Non-Profit Organisations including Recreation – the Council's Policy .....	25
	Appendix C .....	27
	Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients .....	27
	What are the qualifying criteria for Mandatory Relief? .....	28
	What rural settlements exist within the North Devon District Council's area? .....	28
	Arlington; Ashford; Atherington; .....	28
	What is the definition of a General Store? .....	29
	What is the definition of a Public House? .....	29
	What is the definition of a Petrol Filling Station? .....	29

What is the definition of a Food Shop? .....	29
What are the qualifying criteria for Discretionary Relief? .....	29
Rural Rate Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief. ....	30
Appendix D .....	31
Discretionary Relief – Premises within Rural Settlements .....	31
Benefit to the local community .....	32
Rural Rate Relief – the Council’s Policy for granting discretionary relief. ....	32
Appendix E.....	34
Discretionary Relief – Localism Act 2011 .....	34
General explanation .....	35
Discretionary Relief – Localism – the Council’s Policy.....	35
Appendix F.....	37
Local Newspaper Relief.....	37
General Explanation .....	38
Eligibility criteria .....	38
Local Newspapers.....	38
Office Space.....	38
Amount of Relief .....	38
Local Newspaper Relief – the Council’s policy for granting discretionary relief. ....	38
Appendix G .....	39
Supporting Small Businesses Relief.....	39
General Explanation .....	40
Who is eligible for the relief and how much relief will be available?.....	40
Recalculation of relief.....	41
Other Reliefs.....	41
Supporting Small Businesses Relief – the Council’s policy for granting discretionary relief. ....	42
Appendix H .....	43
Public House Relief.....	43
General Explanation .....	44
Eligibility criteria .....	44
Other Reliefs.....	44
Public House Relief – the Council’s policy for granting discretionary relief. ....	44
Appendix I .....	45
Discretionary Business Rate Relief Scheme .....	45
General Explanation .....	46
Consultation .....	47
State Aid .....	47
Decisions by the Council .....	47
Discretionary Business Rate Relief Scheme– the Council’s policy for granting discretionary relief. ....	47
Applications for relief under this scheme.....	49
Amount of Relief .....	49
Variation and amendment of relief under the scheme .....	49
Appendix J.....	51
Retail Discount.....	51

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General Explanation .....	52
Who is eligible for the relief? .....	52
How much relief will be available? .....	54
Retail Discount – the Council’s policy for granting discretionary relief. ....	55
Appendix K .....	56
Section 49 – Hardship Relief.....	56
General explanation .....	57
Section 49 Hardship Relief – the Council’s Policy .....	57

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## 1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas 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 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 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 and reductions to ratepayers, subject to certain criteria being met. In the case of the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
  - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
  - The Council's policy for the granting of all types of Discretionary Reliefs;
  - Guidance on granting and administering the reliefs and awards;
  - European Union requirements including provisions for State Aid; and
  - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief they will be granted (or not granted) relief or reductions 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 been extended under the Local Government Act 2003 (effective from 1<sup>st</sup> April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

### Rural Rate Relief

- 2.4 From 1<sup>st</sup> April 1998, under powers originally granted to the Council by 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 settlement, 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 settlement provided it has a Rateable Value of up to £12500.
- 2.5 From 1<sup>st</sup> April 2017 and each year thereafter, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. The legislation enabling this will not be forthcoming until 2018 and therefore it has indicated that where the additional 50% is granted, a section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate.
- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 **and** are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief if it is satisfied

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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

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that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

## 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 more assistance to businesses and organisations.
- 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 apply to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 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 within the authority's area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made.
- 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 **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes of recreation;
  - c. Discretionary Relief – Rural Rate Relief - premises that already receive mandatory relief;
  - d. Discretionary Relief – Rural Rate Relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
  - e. Discretionary Relief – Granted under the Localism Act 2011 provisions;
  - f. Local Newspaper Relief (from 1<sup>st</sup> April 2017);
  - g. Local Public House Relief (from 1<sup>st</sup> April 2017);
  - h. Supporting Small Businesses Relief (from 1<sup>st</sup> April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016));
  - i. Discretionary Business Rates Relief Scheme (from 1<sup>st</sup> April 2017 for a period of up to four years);
  - j. Retail Discount Relief (from 1<sup>st</sup> April 2019); and
  - k. Hardship Relief (Section 49).

3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

## The Council's general approach to granting Discretionary Relief

3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:

- a. The awarding of relief will be in line with the Council's vision and values - The organisation will need to demonstrate how its use of business property contribute to the Council's priorities.
- b. Be equitable and balance the wider interests of the community with the resources made available by the Council Tax payer;
- c. Be clear and transparent;
- d. Set out, as far as possible, objective criteria rather than subjective judgements for the award of Discretionary Relief;
- e. Offer stability to those organisations receiving relief;
- f. Any award should support business, charities, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
- g. The award should help and encourage business, charities, organisations, groups and communities to become self-reliant;
- h. Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
- i. Local organisations will be given priority over national organisations. Favourable consideration will be given to organisations providing services exclusively for North Devon residents. It is unlikely that the Council will support a national charity head office, for example. However, where a national charity has a branch in North Devon that provides services **exclusively** for North Devon residents this will be considered favourably;
- j. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs (normally two full years) including, and most importantly, the amounts of monies raised, used and invested locally. Consideration will be made to details of any action taken by the organisation to limit their need for financial support from North Devon Council, for example by self-help or applications for grant aid;
- k. To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which without granting discretionary relief they would be unable to do;
- l. To assist the Council in delivering services which could not be provided otherwise;
- m. The decision whether to award Discretionary Charity Relief in respect of occupation of business rates properties is quite separate from grant determinations. However, North Devon will have regard to grant decisions (in particular where Council Grants have been reduced recently) when making discretionary rate relief decisions;
- n. If an organisation is in receipt of a grant from the Council, this will be considered favourably. However, a decision to award grants does not mean that the Council is bound to award discretionary relief, either in full or in part;

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- o. Where an organisation has recently lost grant funding or had a grant award reduced, this will be taken into account when considering the organisation's finances as above; and
    - p. To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it;
  - 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then this will be provided **after** applying any Government funded relief, where possible and subject to the requirements of individual reliefs.
  - 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

### **The Council's approach to granting Government led Discretionary Relief schemes**

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

## 4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in the main, 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. For 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.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 4.4 The financial effects of discretionary reliefs covered by this policy are as follows:

Appendix	Relief Type	Granted after 1 <sup>st</sup> April 2019
	<b>Charity Relief</b>	
A	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies	40% borne by the Council
	<b>Rural Rate Relief</b>	
C	50% Discretionary relief granted to Mandatory Rural Relief recipients	Section 31 Grant
D	Other premises within a rural settlement under £16500 RV	40% borne by the Council
	<b>Localism</b>	
E	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	<b>Local Newspaper Relief</b>	
F	Discretionary Relief granted to local newspapers meeting the criteria (From 1 <sup>st</sup> April 2017)	Section 31 Grant
	<b>Public House Relief</b>	
G	Discretionary Relief granted to public houses meeting the criteria (From 1 <sup>st</sup> April 2017).	Section 31 Grant
	<b>Supporting Small Business Relief</b>	
H	Supporting Small Businesses Relief (from 1 <sup>st</sup> April 2017 for a period of up to five years if conditions are met)	Section 31 Grant
	<b>Discretionary Business Rates Relief Scheme</b>	

<b>Appendix</b>	<b>Relief Type</b>	<b>Granted after 1<sup>st</sup> April 2019</b>
I	Discretionary Business Rates Relief Scheme (from 1 <sup>st</sup> April 2017 for a period of up to four years)	Section 31 Grant up to a maximum level set by Central Government. Once the maximum has been reached any additional amount is borne 40% by the Council
	<b>Retail Discount Scheme</b>	
J	The Retail Discount Scheme (from 1 <sup>st</sup> April 2019)	Section 31 Grant
	<b>S49 Hardship Relief</b>	
K	Partial or full relief for cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers	40% borne by the Council

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## **5.0 Discretionary Relief – EU State Aid requirements**

- 5.1 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.
- 5.2 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.
- 5.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)<sup>4</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).
- 5.4 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 Department for Communities and Local Government (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.
- 5.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, 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>4</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

## 6.0 Administration of Discretionary Relief

- 6.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief and reduction. This is essentially laid down by legislation<sup>5</sup>

### Applications and Evidence

- 6.2 All reliefs must be applied for. Application forms are available both in hard copy and/ or electronic format. The relevant application forms are available from the Council. The Council will specify how applications are to be received and this may vary from time to time.
- 6.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.
- 6.4 Applications should initially be made to the Revenues and Benefits Service and will be determined in accordance with Section 7 of this policy.
- 6.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties. Applications will be accepted from ratepayers only.**

### Granting of relief

- 6.6 In all cases, the Council will notify the ratepayer of decisions made.
- 6.7 Where an application is successful, then the following will be 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. (It should be noted that reliefs are granted for the period specified in the appropriate appendix and may vary from a day to a full financial year);
  - 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.

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<sup>5</sup> The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- 6.8 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.
- 6.9 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 6.10 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief for any other period as appropriate.
- 6.11 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

## **Variation of a decision**

- 6.12 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 (excluding rateable value increases) or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
  - Where the amount is to increase for any other reason, it will take effect at the expiry of a financial year unless it is granted for a fixed period;
  - Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
  - Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;
- 6.13 A decision may be revoked at any time however; a one-year period of notice will be given, and the change will take effect at the expiry of a financial year unless relief has been awarded for a fixed period.

## **7.0 Scheme of Delegation**

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

- 7.1 All powers in relation to reliefs are 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. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 7.2 The Council's scheme of delegation allows for the Head of Resources to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the relevant executive or committee prior to final determination.
- 7.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

### **Reviews**

- 7.4 The policy for granting relief will be reviewed annually or 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.

### **Appeals**

- 7.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Head of Resources. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 7.6 Where the ratepayer wishes to appeal the decision of the Head of Resources, the case will be considered by the Executive Member for Resources whose decision on behalf of the Council will be final.
- 7.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

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## **8.0 Reporting changes in circumstances**

- 8.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible or in any event within 21 days of the change. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 8.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

## **9.0 Fraud**

- 9.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

## **Appendix A**

### **Discretionary Relief – Mandatory Relief recipients**

## Discretionary Relief – Mandatory Relief recipients

### General Explanation

- A.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.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1<sup>st</sup> April 2004) to include registered<sup>6</sup> Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

### Charity registration

- A.3 Charities are defined within the legislation as being an institution<sup>7</sup> or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.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>8</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.
- A.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.
- A.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

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<sup>6</sup> Registered with HMRC as a CASC

<sup>7</sup> S67(10) Local Government Finance Act 1988

<sup>8</sup> Income Tax Special Commissioners v Pemsell (1891)

## Use of Premises - wholly or mainly used

- A.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. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.8 Guidance from the Ministry of Housing, Communities and Local Government (MHCLG) 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
- A.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 may be equally considered for discretionary rate relief.

## Offices, administration and similar premises

- A.10 Premises used for administration of the Charity include:
- Offices;
  - Meeting Rooms; and
  - Conference Rooms.

## Charity shops

- A.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.
- A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received

## Granting of Mandatory Relief - the Council's Policy

- A.13 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.

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## **Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.**

- A.14 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis.
- A.15 In determining the application, the following matters will be taken in to consideration:
1. How the charity supports and links into the Council’s corporate vision and priorities;
  2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested; and
  3. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity. The Council is keen to ensure that the organisation provides significant benefit to local residents of North Devon.
- A16 The Council is keen to support businesses that have a critical role to play in the local economy and to assist the Council in meeting the Corporate aims and values.
- A.17 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:
1. The ratepayer occupies the whole hereditament;
  2. Relief cannot be granted in respect of premises that are occupied by the Council or precepting authority;
  3. How the CASC supports and links into the Council’s corporate vision and priorities;
  4. The membership and fee structure, and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
  5. Membership numbers and the number and percentage of these members that are local residents;
  6. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
  7. Whether facilities are available to the wider community regardless of ability; and
  8. If the CASC runs a bar or food provision: the level of income from this activity and how this money is used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.
- A.18 The Council wishes to support and enable appropriate businesses to start, develop and continue with their operations that deliver outcomes directly related to the Council’s aims and vision. In the main, this will be done through other means rather than granting discretionary relief. There may be occasions where applications are made for such relief or where a package of measures, including discretionary relief, are appropriate in supporting businesses. This would need to be in accordance with any limitations in respect of state aid.

## **Appendix B**

### **Discretionary Relief - Non-Profit Making Organisations including Recreation**

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

### General explanation

#### Non-Profit

- B.1 The legislation<sup>9</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.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.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>10</sup>

#### Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.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.
- B.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.

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<sup>9</sup> S47 Local Government Finance Act 1988

## **Access to clubs**

- B.7 Guidance issued by the MHCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.
- B.8 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.
- B.9 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.
- B.10 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.
- B.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.?'

## **Provision of facilities**

- B.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.
- B.13 A number of organisations run a bar. The mere existence of a bar will 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.
- B.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**

- B.15 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken in to consideration (The list is not exhaustive):
- How the organisation supports and links into the Council's corporate vision and priorities;
  - Whether the facilities provided include education and/or training for members as a whole or for special groups;

- 
- The extent to which the facilities provided reduce the demand for Council services or produce savings;
  - Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
  - If covered by a membership scheme, membership numbers and the number and percentage of these members that are local residents; and
  - If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example black and minority ethnic residents, people over 50 and people with disabilities.

B.16 The Council will also require additional financial information including:

- If the organisation runs a bar or food provision, the level of income from this activity and how this money is used.; and
- Whether the organisation operates at a local or national level and where appropriate, the local and national funding streams and financial position of the organisation.

## **Appendix C**

### **Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients**

## Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients

### What are the qualifying criteria for Mandatory Relief?

- C.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010);
  - The property must be used as a Post Office or a General Store (see below for definition), or both;
  - The property must be the only Post Office or the only General Store within the Rural Settlement.
- C.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 from 1 April 2010);
  - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
  - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- C.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 from 1 April 2010); and
  - The property must be used as a shop selling mainly food (see below for definition).

### What rural settlements exist within the North Devon District Council's area?

- C.4 The following are deemed to be rural settlements within the Council's area. The boundary of each settlement is the same as the Parish boundary, except where otherwise defined.

Arlington; Ashford; Atherington;

Berrynarbor; Bishops Nympton; Bishops Tawton; Bittadon; Bratton Fleming; Brayford; Brendon; Burrington

Challacombe; Chittlehamholt; Chittlehampton; Chulmleigh; Combe Martin; Countisbury

East & West Buckland; East Anstey; East Down; East Worlington

Filleigh;

George Nympton; Georgeham; Goodleigh

Heanton Punchardon; Horwood

Instow;

Kentisbury; Kings Nympton; Knowstone

Landkey; Lovacott; Lincombe & Lee; Loxhore; Lynton & Lynmouth

Mariansleigh; Martinhoe; Marwood; Meshaw; Molland; Mortehoe

Newton Tracey; North Molton;

Parracombe;  
Queens Nympton;  
Rackenford; Romansleigh; Rose Ash  
Satterleigh & Warkleigh; Shirwell; Stoke Rivers; Swimbridge  
Tawstock; Trentishoe; Twitchen;  
West Anstey; West Down; West Pilton; Westleigh; Witheridge.

### **What is the definition of a General Store?**

- C.5 For the purposes of Rural Rate Relief, 'General Store' means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that, they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they may still be eligible to apply for Discretionary Relief.

### **What is the definition of a Public House?**

- C.6 For the purposes of Rural Rate Relief, 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises must be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

### **What is the definition of a Petrol Filling Station?**

- C.7 For the purposes of Rural Rate Relief, 'Petrol Filling Station' means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads.

### **What is the definition of a Food Shop?**

- C.8 For the purpose of Rural Rate Relief, 'Food Shop' means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). This definition may also include shops, which sell mainly household foods, and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tearoom, take-away, or confectionery sales are not food shops and so will not qualify for mandatory relief.

### **What are the qualifying criteria for Discretionary Relief?**

- C.9 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions. It should be noted that for 2017 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

## **Rural Rate Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.**

- C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as primarily legislation is changed.

## **Appendix D**

### **Discretionary Relief – Premises within Rural Settlements**

## **Discretionary Relief – Premises within Rural Settlements**

- D.1 In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16,500 or less and:
- a. Property is used for purposes which are of benefit to the local community; and
  - b. It would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers.
- D.2 As with most discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- D.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

### **Benefit to the local community**

- D.4 Whilst each application for the relief will be considered on its own merits, there are certain factors which weigh heavily in the decision-making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- D.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

### **Rural Rate Relief – the Council's Policy for granting discretionary relief.**

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.
- D.7 In determining the application the following matters will be taken in to consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
  - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
  - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
  - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement;

- The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the Council;

## **Appendix E**

### **Discretionary Relief – Localism Act 2011**

## Discretionary Relief – Localism Act 2011

### General explanation

- E.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.
- E.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. An example where the Council has granted relief in the past are where premises were affected by flooding.

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

- E.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.
- E.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 etc.) may apply. When considering an application for rate relief the following factors will be taken into account:
- a. That relief is for a temporary period;
  - b. The significance of potential loss of employment in the area;
  - c. Opportunities for new business growth, expansion and employment within the area;
  - d. The positive effects on business cash flow and evidence of positive impact on future viability;
  - e. Sufficient evidence of likelihood of recovery of the applicant’s business;
  - f. The capacity of NDC intervention to secure further investment and retained and/or new employment opportunities;
  - g. Reassurance of duration of retained employment and continued production/operation in the area;
  - h. Uniqueness of service/commodity being provided within the community/district;
  - i. What proactive measures the business/organisation is taking to reduce overheads, etc.;
  - j. Measures being taken to reduce their rate liability, for example occupying smaller premises, letting out parts of the building, etc.;
  - k. Consideration will also be given to rate deferral, reprofiling of instalments, arrangements as an alternative method of support;
  - l. Cost of funding relief and the constraints on NDC’s finances;
  - m. It is in the interests of council tax payers as a whole to give relief;
  - n. Giving rate relief to a business/organisation must be balanced against whether this creates unfair market conditions to the detriment of others;

- 
- o. It should also be recognised that one of the main overheads of any business is Non-Domestic Rates and therefore it is reasonable to expect that businesses have made provision to pay this;
  - p. Businesses can appeal against the rateable value or where there is a material change can apply to the Valuation Office Agency to have the rateable value reassessed NDC would expect businesses to use this mechanism first; and
  - q. Payment record history will be taken into account.
- E.5 Relief will be withdrawn/ cancelled if:
- a. the conditions or circumstances on the basis of on which the relief was granted change or fail to materialise, or the information submitted as part of the application proves to be misleading;
  - b. the applicant ceases to be the ratepayer; or
  - c. business/organisation ceases to trade (in case of occupied rates) or downscales operations and workforce in contravention of any agreement; or
  - d. the use of the property changes
- E.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 as specified within section 5 of this policy.

## **Appendix F**

### **Local Newspaper Relief**

## General Explanation

- F.1 This is a relief that will be awarded until 2025 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

## Eligibility criteria

- F.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament per annum

## Local Newspapers

- F.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a "traditional local newspaper." The relief will not be available to magazines.

## Office Space

- F.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

## Amount of Relief

- F.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g. per newspaper name) **AND** per hereditament. As with all discretionary rate relief, any grant will be subject to State Aid limits as defined within section 5 of this policy.

## Local Newspaper Relief – the Council's policy for granting discretionary relief.

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

## **Appendix G**

### **Supporting Small Businesses Relief**

## General Explanation

- G.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. They have also allowed rural rate relief to be granted up to 100% using S47 of the Local Government Finance Act 1988 as a top up to the mandatory level of 50%, albeit that the rateable value limits have not been changes in respect of rural hereditaments (see section D of this policy). Unfortunately, despite these changes, some small businesses and businesses in rural areas may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1<sup>st</sup> April 2017.
- G.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business or rural rate relief may face large percentage increases in bills from 1 April 2017.
- G.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- G.4 The relief is known as the 'Supporting Small Businesses Scheme'

## Who is eligible for the relief and how much relief will be available?

- G.5 The Supporting Small Businesses relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.
- G.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
  - a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation ( unlike the transitional relief scheme under the Chargeable Amount regulations). For the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief; **or**
  - b. a cash value of £600 per year (£50 per month).
- G.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.

- G.8 In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who in 2016/17 paid nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.
- G.9 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.
- G.10 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016).
- G.11 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme, **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- G.12 The rules for state aid (as detailed in section 5 of this policy) shall apply when considering Supporting Small Businesses Relief.

## Recalculation of relief

- G.13 The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change to the rateable value or the hereditament; or
  - The awarding of another relief.
- G.14 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

## Other Reliefs

- G.15 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under the Supporting Small Business scheme.
- G.16 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.

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## **Supporting Small Businesses Relief - the Council's policy for granting discretionary relief.**

G.17     The Council has decided to grant relief strictly in accordance with Central Government guidelines

## **Appendix H**

### **Public House Relief**

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## General Explanation

- H.1 This is a temporary relief for 2020/21 **only** and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988) to grant £1000 relief in line with the eligibility criteria set out in guidance to be produced by Central Government
- H.2 Central Government guidelines have been issued and it has been established that any amount granted will be reimbursed by a section 31 grant.

## Eligibility criteria

- H.3 The Council's policy, in line with Central Government requirements, will provide a relief of £1,000 relief for one year only for all eligible public houses who have a rateable value of less than £100,000 on 1<sup>st</sup> April 2017.
- H.4 The definition of a 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises **must** be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.
- H.5 It will be for the Council to decide whether any premises falls within the definition give in the above paragraph. No relief shall be given where the premises are unoccupied.

## Other Reliefs

- H.6 Public House relief will be granted after applying any other mandatory reliefs and reductions

## Public House Relief – the Council's policy for granting discretionary relief.

- H.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

## **Appendix I**

### **Discretionary Business Rate Relief Scheme**

## General Explanation

- I.1 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.
- I.2 Every authority within England is to be provided with a share of a £300 million fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988.
- I.3 Government also believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.
- I.4 The funding is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%
- I.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government has decided that any underspend **cannot** be 'vired' from one year to the next.
- I.6 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- I.7 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

Amount of discretionary fund awarded (£000s) - North Devon District Council			
2017-18	2018-19	2019-20	2020-21
251	122	50	7

## Consultation

- I.8 The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Ministry of Housing, Communities and Local Government (MHCLG) No.31/3071.
- I.9 The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:
- a. Any major precepting authority; and
  - b. Any combined authority.
- I.10 In the case of North Devon District Council the major precepting authorities have been consulted namely:
- a. Devon County Council
  - b. Police and Crime Commissioner for Devon and Cornwall; and
  - c. Devon and Somerset Fire and Rescue Service.

## State Aid

- I.11 The rules relating to State Aid (as defined within section 5 of this policy) apply. The Council will ensure full compliance in this area to ensure that relief can be given to the most deserving ratepayers.

## Decisions by the Council

- I.12 Decisions by the Council are made directly in line with the Scheme of Delegation as outlined within section 7 of this policy. Any decision to award relief under this scheme will follow the core principles of the Council's discretionary relief policy as defined by section 3.8.
- I.13 It should be noted that whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any relief under this scheme **will not take account** of the level of any funding.

## Discretionary Business Rate Relief Scheme- the Council's policy for granting discretionary relief.

- I.14 The scheme is designed to assist ratepayers who have suffered increases in their rate liability as a result of the 2017 revaluation.
- I.15 In assessing any potential entitlement to an award under this scheme, the Council will compare the following:
- i. The rate liability of the ratepayer as 31 March 2017 after any reliefs and reductions; and

- ii. The rate liability of the ratepayer at 1 April 2017 taking into account any transitional relief, relief or reductions.

I.16 There are two parts to the scheme in which ratepayers will be considered:

- Part A – Formula based for financial years 2017/18, 2018/19 & 2019/20; and
- Part B – From 2017 and for the year 2020/21 on a case by case basis.

#### **Part A – Formula based criteria (2017/18 to 2019/20)**

- A Relief will be awarded where the calculation in I.15 above would result in an increase of more than 2%.
- B Relief will be awarded where the calculation in I.15 above results in an increase of at least £50.00 per annum. Relief will be paid up to a maximum of £2,000;
- C Relief will only be granted to premises that are liable for occupied rates. No relief will be awarded to unoccupied premises;
- D Relief will only be granted where the rateable value is less than £200,000;
- E Relief will only be granted to ratepayers who were in occupation at 31 March 2017 and in occupation on 1 April 2017 and for each day subsequent;
- F Ratepayers taking up occupation after 1 April 2017 will not be eligible for relief on the basis that new ratepayers would not have suffered from increases as a result of revaluation;
- G Relief will be targeted to local businesses and not those businesses that are national or multinational in nature. Local businesses are, for the purpose of this scheme, those which have premises wholly or predominately in the Devon area;
- H Relief may be awarded for more than one premises as long as all other criteria are met;
- I Relief under Part A will not be awarded where:
  - mandatory relief has been granted
  - the ratepayer is a public body
  - the ratepayer has been granted a reduction under S44a of the Local Government Finance Act 1988;
- J Additional discretionary relief will not be awarded for rateable value increases after 1 April 2017;
- K Relief will not be awarded for premises which are wholly or mainly used for:
  - i. Financial services e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers etc.;
  - ii. Medical services e.g. hospitals, doctors, dentists etc.; and
  - iii. Professional services e.g. accountants, estate agents, tax advisers, insurance agents etc.; and
- L Relief will not be awarded to any educational establishments.

#### **Part B – Case by case basis**

Where any ratepayer can demonstrate that they have experienced financial difficulties as a result of revaluation the council will consider these on a case by case basis. The Council will take into account:

- the amount of the increase in rate liability due to the revaluation;
- the amount of rates in relation to other business expenses and income of the business;
- the amount of reserves held by the business; and
- the ability of the business to pay the increase.

## Applications for relief under this scheme

- I.17 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application

## Amount of Relief

- I.18 The amount of relief under Part A is tapered and will be calculated as follows:

### **2017/18**

Award = Increase in rate liability calculated in I.15 LESS 2%. For the avoidance of doubt, relief will only be awarded where the ratepayer has an increase of at least 2%. The award will reduce the increase down to 2% with the proviso that the maximum award will be £2,000 and no award will be made if the increase would be less than £50.

### **2018/19**

Award = 2017/18 award x 50% (for clarity this will be half of the relief awarded in 2017/18)

### **2019/20**

Award = 2018/19 award x 40% (for clarity this will be forty per cent of the relief awarded in 2018/19)

- I.19 For 2017/18, 2018/19 and 2019/20 most of the funding will be given under part A but part of this will be retained to be used under part B (on a case by case basis). For **2020/21** all of the funding will be granted under part B.

## Variation and amendment of relief under the scheme

- I.20 As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates relief scheme will be recalculated in the event of a change of circumstances. In effect, relief is calculated on a daily basis in line with the ratepayer's liability on that day. This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.
- I.21 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for

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calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

## **Appendix J**

### **Retail Discount**

## General Explanation

- J.1 The Government announced on 29 October 2018 that it will provide a business rates Retail Discount scheme for occupied retail properties with a rateable value of less than £51,000 in each of the years 2019-20 and 2020-21.
- J.2 The value of discount should be one third of the bill and must be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied.
- J.3 Where an authority applies a locally funded relief, under section 47 this must be applied after the Retail Discount.
- J.4 As this is a measure for 2019-20 and 2020-21 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will, in line with the eligibility criteria defined by them, reimburse any authorities that 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.
- J.5 It is for the Council to adopt a local scheme and determine in each individual case when to grant relief under section 47.

## Who is eligible for the relief?

- J.6 Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments. The Government consider shops, restaurants, cafes and drinking establishments to mean:
- i. **Hereditaments that are being used for the sale of goods to visiting members of the public:**
    - Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, 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. Hereditaments 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
- Tool hire
- Car hire

**iii. Hereditaments 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

J.7 To qualify for the relief the hereditament 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, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

From 1<sup>st</sup> April 2020/21

J.8 From 1<sup>st</sup> April 2020 Government has added the following hereditaments into the provision for discount:

**iv. Hereditaments being used as Cinemas**

**v. Hereditaments that are being used as live music venues**

J.9 Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a

nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended). Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).

## **Hereditaments that are not likely to receive relief under the scheme**

J.10 The list below sets out the types of uses that the 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. Hereditaments 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, bureaux 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 offices

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

- Generally speaking, Government also does not consider other assembly or leisure uses beyond those listed to be retail uses for the purpose of the discount. For example, cinemas, theatres and museums are outside the scope of the scheme, as are nightclubs and music venues. Hereditaments used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount. Where there is doubt, the Council will exercise discretion.

## **How much relief will be available?**

### **2019/20**

J.11 The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for particular hereditament in the financial year 2019-20.

J.12 Amount of relief to be granted =  $V / 3$  where V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs.

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## **2020/21**

- J.13 The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for particular hereditament in the financial year 2020-21.
- J.14 Amount of relief to be granted =  $V / 2$  where V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs.

## **Retail Discount - the Council's policy for granting discretionary relief.**

- J.15 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

## **Appendix K**

### **Section 49 - Hardship Relief**

## **Section 49 – Hardship Relief**

### **General explanation**

- K.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

### **Section 49 Hardship Relief – the Council's Policy**

- K.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. Head of Resources will consider applications. Application forms are available from the Council.
- K.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority):
- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
  - Any reduction of the rates must be shown to be significant to the future viability of the business;
  - The business must continue to trade;
  - Cash flow forecasts for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;
  - The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
  - The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
  - Details of any state aid, grants or subsidies either from central or local government over the previous three years;
  - The loss of the business would worsen the employment prospects in the area;
  - The interests of the Council Tax payers of the area would be best served by awarding the relief;
  - The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
  - The business provides employment to local residents in an area where employment opportunities are limited;
  - Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
  - Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
  - The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.