

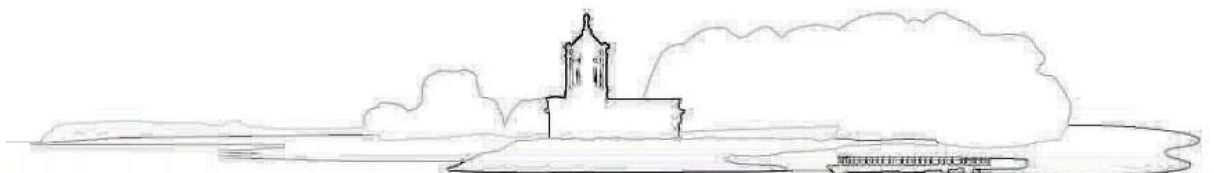


# Rutland County Council

## NON-DOMESTIC RATES DISCRETIONARY RELIEF POLICY

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## **Summary of document**

The policy applies to Non-Domestic Discretionary Rate Relief awarded under the Local Government Finance Act 1988 and subsequent amending regulations. The policy sets out to achieve a fair and robust approach to the award and review of Discretionary Relief in Rutland.

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## **1.0 INTRODUCTION**

- 1.1 Local Authorities have the power to grant Discretionary Rate Relief to charitable organisations and other non-profit making organisations or institutes that meet certain criteria. The power is discretionary and can therefore, be limited by other factors- such as the budget and funds which are available for the purpose, and the Council's strategic aims and objectives.
- 1.2 Any relief which may be granted is used to reduce the amount that the organisation is required to pay in Non-Domestic Rates (commonly referred to as Business Rates).
- 1.3 The provisions are set out in the Local Government Finance Act 1988. The discretion to grant relief can be for part or the entire amount of Business Rates payable.
- 1.4 The Council recognises the valuable contribution that non-profit making organisations and charities have in the life and wellbeing of the community. The Council, therefore acknowledges the way these organisations can complement the Council's own policies and can offer services that are valued by the Community.

## **2.0 LEGISLATION**

- 2.1 Mandatory Rate Relief can be awarded under Section 43 of the Local Government Finance Act 1998 to organisations that meet specific criteria such as registered charities, Community Amateur Sports Clubs (CASCS), and some organisations that are exempt from charitable registration but occupy a hereditament wholly or mainly for charitable purposes. This Relief currently amounts to 80% of the rates payable.
- 2.2 The Council has discretionary power, under Section 47 of the Local Government Finance Act 1988 to 'top-up' this relief to 100%, by awarding between 0-20% in Discretionary Reliefs.
- 2.3 The Council can also award up to 100% Discretionary Relief to kindred organisations which are non-profit making and whose main objectives are philanthropic, religious or are concerned with education, social welfare, science, literature or the fine arts.
- 2.4 The Council is not permitted to award Discretionary Relief to a Precepting Authority or itself, as a billing authority.
- 2.5 Premises which are partly occupied can receive Discretionary Relief under Section 44A of the Local Government Finance Act 1988. This is a process whereby, if the local authority approves an application for relief under Section 44A a request will be made to the Valuation Office to apportion the Rateable Value of the hereditament. This is so the

occupier may benefit from any appropriate exemption for the unoccupied area but pay the full charge for the occupied apportionment.

- 2.6 The Local Government Finance Act 1997 followed by various regulations introduced 50% Mandatory Relief and between 0-50% Discretionary Rural Rate Relief with effect from 1 April 1997, for certain rural businesses, (including sole village pubs or petrol filling stations) where the qualifying criteria are met.
- 2.7 Section 49 of the Local Government Finance Act 1988 permits Discretionary Relief to be award on the basis of hardship, with consideration to the interest of local taxpayers.
- 2.8 With effect from 1<sup>st</sup> April 2013 funding for both Mandatory and Discretionary Rate Reliefs is changing. The total amount of relief granted is included in the annual statistical returns (which are completed to inform Central Government of the amount of NNDR we expect to collect and that have actually been collected). The NNDR income, (taking account of losses in collection, amendments to Rateable Value etc), is then split into the following proportions:  
  
50% paid to Central Government  
49% retained by Local Authority  
1% paid to the precepting Fire Authority
- 2.9 European Union 'competition rules' generally prohibit Government subsidies to businesses Relief from taxes- including NNDR- can constitute State Aid. Consideration must be made when granting Discretionary Reliefs.
- 2.10 Rate relief for charities and non-profit making bodies is not normally considered to be state aid because the recipients are usually not in market competition with other businesses. However, if the charities or non-profit making bodies are engaged in commercial activities, they are displacing an economic operator or they have a commercial partner, Rate Relief could constitute State Aid and EU rules will apply.

### **3.0 POLICY AIM**

- 3.1 The policy aims to support the strategic aims and objectives of the Authority, in particular:
  - Creating an active and enriched community
  - Meeting the health and well-being needs of the community
  - Creating a brighter future for all
  - Delivering Council services within our Medium Term Financial Plan

- 3.2 The policy will seek to provide Discretionary support to those organisations that provide valuable services or facilities to the community.
- 3.3 The policy will aim to assess each case on its own merits, having regard to the guidance detailed below, the benefit of the organisation to the local community, and the financial cost of awarding the Relief.

#### **4.0 GUIDANCE FOR RATE RELIEF FOR DISCRETIONARY TOP-UP OF UP TO 20% FOR CHARITIES AND CASCs AND DISCRETIONARY RATE RELIEF FOR VILLAGE HALLS OF UP TO 100%**

- 4.1 The guidance for awarding Rate Relief and the factors taken into account are detailed below.

	<b>GUIDANCE</b>	<b>How this will be measured</b>
1	<p><b>Use of property</b></p> <p>The property must be used wholly or mainly for the purpose of the charity/CASC or provision of a community Village Hall</p>	Signed declaration
2	<p><b>Rateable Value</b></p> <p>The amount of the award will be based on:            Maximum permitted Relief amount for properties with an RV of 0-9,999.            Half relief amount for properties with RV of 10,000-24,999.            No relief for properties with an RV over 25,000</p>	Shown on Rating List
3	<p><b>Constitution</b></p> <p>Evidence that the organisation is non-profit making and that membership or access is open to all sections of the community</p>	Copy of constitution or Articles of Association
4	<p><b>Membership</b></p> <p>Membership or access is open to all sections of the community</p> <p>The organisation actively</p>	Level of membership or access fees charged. Membership fees should be

	encourages membership from particular groups with protected characteristics in accordance with the Equality Act 2010	reasonable and not set so high as to be inaccessible to people on a low income. Details of any concessions.
5	<p><b>External bookings</b></p> <p>Facilities are made available to other sector of the local community i.e. schools, clubs, casual taster sessions etc.</p>	<p>Details of the use of the facilities over the past financial year i.e. copy of bookings diary</p> <p>Details of the cost of the use of the facilities – level of fees charged</p> <p>Evidence of the promotion of the facilities</p>
6	<p><b>Training and Education</b></p> <p>The organisation provides training, education or coaching to its members and/or the local community</p>	Details of any training, educational services or coaching programmes offered during the last financial year
7	<p><b>Policies and procedures</b></p> <p>Evidence of suitable safeguarding and equality measures in place for its members or those using the facilities.</p>	<p>Copies of any polices relating to</p> <ul style="list-style-type: none"> <li>• Safeguarding children</li> <li>• Safeguarding adults</li> <li>• Equality</li> <li>• Code of practice</li> <li>• Rules of membership</li> <li>• Inclusion policy</li> </ul>
8	<p><b>Profit and re-investment</b></p> <p>Establish if the organisation holds substantial reserves or profits or needs discretionary support to continue</p> <p>Evidence that any profits are reinvested in the organisations</p> <p>Establish if the organisation runs a drinks/.licensed/refreshments bar and the profits from this facility</p>	Copies of income and expenditure accounts for the last financial year

9	<p><b>Bar takings</b></p> <p>Establish if the organisation runs a drinks/licensed/refreshments bar and the profits from this</p>	Latest audited accounts
10	<p><b>National affiliation</b></p> <p>Establish if the organisation is affiliated to a national governing body or organisation</p>	Copy of affiliation letter or registered number
11	<p><b>Competitive opportunities</b></p> <p>(CASCS only) establish if the organisation holds regular competitive events for its members</p>	Copy of latest fixture list or similar
12	<p><b>Links to local community</b></p> <p>Establish if the charity/group is a local organisation and who uses the organisation and the facilities</p>	Details of organisations, individuals and local groups who use the facilities or benefit from their services, statistical information about the local usage, and details of how funds are spent within the area
13	<p><b>Accreditations</b></p> <p>Establish if the organisation has any nationally recognised accreditations</p> <p>i.e. Investors in People, Positive about Disability,</p>	Copy of award or certificate
14	<p><b>Organisation development</b></p> <p>Establish the future aims of the organisation, and how these are to be developed and communicated</p>	Copies of development plan or future event notices, newsletters, notice boards items, surveys and consultations undertaken
15	<p><b>Competition/location</b></p> <p>Consider the impact of the</p>	Check of business rates



	organisation on other local businesses	records to establish the types of businesses in the vicinity to try to establish potential direct/indirect competition
16	<b>Proportionate Use of the Property</b>  Consider the use of the property and if it appears to be proportionate to the size of the assessment	Signed application form  Local Non Domestic Rating List/summary valuation
17	<b>Local employment</b>  Establish if the organisation provides paid employment	Numbers of employees and if they are Rutland residents
18	<b>National charities – local support</b>  Establish how the charity benefits the local community.	Evidence of any money raised/spent in Rutland.
19	<b>Other sources of support</b>  Establish whether other sources of funding are available and received.	Details of other sources of funding or income i.e. sponsors, donations, lottery funding, grants

- 4.2 Evidence should be provided to support each point in the application. If the organisation is unable to meet the criteria this should be stated and explained to Officers.
- 4.3 The above guidance will be used to establish the level of support.
- 4.4 The organisation is encouraged to supply any other supplementary information to support their application.
- 4.5 The following will also be taken into account:
- The existence of a licensed bar will not prevent the award of relief- the nature of the organisation and its aims will be taken into account.
  - Any reserves held should not exceed 12 months' running costs.

- If reserves held exceed 12 months' running costs and are held for a planned project, details of the project should be provided along with costing and timescales.
- The organisation must directly benefit Rutland residents

4.6 Each case will be assessed on its own merits.

## 5.0 GUIDANCE FOR RATE RELIEF FOR CHARITY SHOPS UP TO 20% DISCRETIONARY TOP UP

5.1 The guidance for awarding Rate Relief and the factors taken into account are detailed in **Section 4.0** and below.

5.2 The level of Relief will be determined by the evidence provided and the following additional factors will be taken into account:

	<b>GUIDANCE</b>	<b>How this will be measured</b>
<b>1</b>	<p><b>Use of property</b></p> <p>The shop must be wholly or mainly used for the purpose of the charity</p>	<p>Signed declaration</p> <p>Inspection of premises</p>
<b>2</b>	<p><b>Sale of goods</b></p> <p>The shop must sell mainly or wholly donated goods and the sale of these goods must be applied to the purpose of the charity</p>	<p>Signed declaration</p> <p>Information regarding the sale of new or purchase items</p> <p>Inspection of premises</p>
<b>3</b>	<p><b>Local provision</b></p> <p>The charity must be able to demonstrate that the local community benefits from the services that the charity provides</p>	<p>Details of the type of services or support provided to Rutland residents and the number of Rutland residents who benefit from the service/support</p>

5.3 Evidence should be provided to support each point in the application. If the organisation is unable to meet the criteria this should be stated and explained to Officers.

5.4 The above guidance will be used to establish the level of support- from a range of 0-20% Discretionary Relief.

5.5 The organisation is encouraged to supply any other supplementary information to support their application.

5.6 Each case will be assessed on its own merits.

## 6.0 GUIDANCE FOR RURAL RATE RELIEF 50% TOP UP

6.1 The guidance for awarding Rural Rate Relief and the factors taken into account are detailed below:

	<b>GUIDANCE</b>	<b>How this will be measured</b>
1	<b>Mandatory eligibility</b>  The business meets the criteria to qualify for Mandatory Rural Rate Relief	Application and award
2	<b>Value to the community</b>  The business provides a service that is of value or benefit to the local community	Statement required detailing the Service offered, the number of local people employed and the % of service users who are local residents
3	<b>Other businesses</b>  Any rural business with a RV of less than £16,500 in a rural settlement which can clearly demonstrate it is of benefit to the local community.	Evidence as requested. Must be of value to the local community and be used by local residents  Up to 100% relief is available for this category.

6.2 The amount of discretionary relief awarded will be up to 50% of the rates payable. Consideration will be given to the level of relief and if the loss of the service provided would be detrimental to local residents.

6.3 The organisation is encouraged to supply any other supplementary information to support their application.

6.4 Each case will be considered on its own merits.

## 7.0 GUIDANCE FOR HARDSHIP RELIEF UP TO 100%

7.1 The guidance for awarding Hardship Relief and the factors taken into account are detailed below:

	<b>GUIDANCE</b>	<b>How this will be measured</b>
<b>1</b>	<p><b>Local value</b></p> <p>The business is of importance and value to the local community and is suffering from genuine hardship</p>	<p>Statement of the business type and the impact upon the local community if the business were to close.</p> <p>The use of, and value of, the business to the local community. Evidence of local trade and support.</p>
<b>2</b>	<p><b>Local jobs</b></p> <p>The number of people employed by the business who reside in Rutland</p>	<p>Total number of employees</p> <p>Number of employees who will be affected if relief is refused</p>
<b>3</b>	<p><b>Nature of the hardship</b></p> <p>Details of the hardship being experienced:</p> <ul style="list-style-type: none"> <li>• the cause</li> <li>• the expected duration</li> <li>• measures already taken to remedy the situation</li> <li>• that the cause is not a result of illegal or poor business planning and activity</li> <li>• details of help already requested from other sources</li> <li>• amount of additional support already received from other sources, or reasons why support was not forthcoming</li> </ul>	<p>Latest audited accounts Bank statements Business plan Order books</p> <p>Any other documents to support the application as requested</p>

7.2 Any award will be the exception rather than the rule.

7.3 The business must supply all documents and evidence as required and be able to demonstrate that the business is suffering from genuine hardship.

7.4 Any award may be limited in duration and of a value up to a maximum of 100% of the rates payable.

7.5 Each case will be considered on its own merits.

## 8.0 GUIDANCE FOR SECTION 44A – PARTLY-OCCUPIED PREMISES RATEABLE VALUE APPORTIONMENT

8.1 The criteria for awarding Rate Relief and the factors taken into account are detailed below:

	<b>GUIDANCE</b>	<b>How this will be measured</b>
1	<b>Part Occupation</b>  The property is partly-occupied	Detailed maps must be provided to outline the whole property and indicate the partly occupied section.  Site inspection
2	<b>Length of time</b>  The intended part-occupation will only be for a 'short period of time'	Details of the planned period of time of the part occupation. The nature of the business. Details of future intentions.
3	<b>Reason</b>  The part occupation is not as a result of maintenance, renewal or repairs, or seasonal shutdowns or holidays.	Details of the cause of the part occupation.

8.2 Consideration will be given to other evidence that the business may provide to support its application.

8.3 Applications must be made in a timely manner.

8.4 Applications for retrospective periods will not be accepted because the premises cannot then be inspected to verify the validity of the situation.

8.5 A 'short period of time' is not defined in legislation, therefore, the nature of the business activity will be taken into account, along with the estimated planned period of time and future intentions. In all cases an award will cease at the financial year's end.

8.6 Each case will be considered on its own merits.

## 9.0 LOCALISM ACT DISCRETIONARY DISCOUNTS UP TO 100%

9.1 The guidance for awarding a Discretionary Discount and the factors taken into account are detailed below:

	<b>GUIDANCE</b>	<b>How this will be measured</b>
<b>1</b>	<p><b>Local value</b></p> <p>The business is, or will be, of importance and value to the local community</p>	<p>Statement of the business type and the impact upon the local community if the business were to come into the area/move away from the area.</p> <p>The use of, and value of the business to the local community. Evidence of local trade and support.</p>
<b>2</b>	<p><b>Local jobs</b></p> <p>The number of Rutland residents, who are/will be employed by the business</p> <p>Information about future employment opportunities and business grown</p>	<p>Total number of employees</p> <p>Number of employees who will be affected if a discount is refused</p>
<b>3</b>	<p><b>Reason for the discount request</b></p> <p>Details to include:</p> <ul style="list-style-type: none"> <li>• the reason</li> <li>• the period for which they are applying</li> <li>• measures already taken to obtain support from other sources</li> <li>• amount of additional support already received from other sources, or reasons why support was not forthcoming</li> </ul>	<p>Latest two years audited accounts</p> <p>Bank statements</p> <p>Business plan</p> <p>Order books</p>

<b>4</b>	<b>Other information</b>	
	Any other information which would assist the Local Authority to be satisfied that the granting of relief would be in the interests of the local Council Tax payers	Any other documents to support the application

- 9.2 Clause 69 of the Localism Act amends section 47 of the Local Government Finance Act 1988 to allow Local Authorities to grant Discretionary Discounts, in relation to Business Rates, as it sees fit.
- 9.3 Relief can only be granted if it would be reasonable to do so having regard to the interests of the Council Tax payers in the area.
- 9.4 Any award will be the exception rather than the rule.
- 9.5 Regard will be made to any relevant guidance issued by the Secretary of State when deciding whether to grant relief under section 47 of the LGFA 1988.
- 9.6 The business must supply all documents and evidence as required and be able to demonstrate that the business is deserving of a discount.
- 9.7 Any award may be limited in duration and of a value up to a maximum of 100% of the rates payable.
- 9.8 Each case will be considered on its own merits.

## **10.0 ORGANISATIONS NOT NORMALLY ELIGIBLE FOR DISCRETIONARY RELIEF (with the exception of Section 44A relief)**

- 10.1 General Rural Businesses – this is because there are schemes for Mandatory and Discretionary relief to assist only those who are not established or conducted for profit
- 10.2 Other Educational Organisations – including academies, voluntary aided, voluntary controlled, church or grant aided schools
- 10.3 Public schools – who charge admission fees
- 10.4 National or regional offices of a charity – although the administrative offices providing for the whole of Rutland, provided that there is local access to the offices for those requiring help from that organisation, may be considered

- 10.5 National Charity shops – as these tend not to be specifically for the benefit of local residents.
- 10.6 Housing Associations – due to funding streams available, primarily the rents charged for their housing stock
- 10.7 An application would not automatically be refused from any of the above organisations and consideration would be given to the new powers of the Localism Act 2011.
- 10.8 Each case would be assessed on its own merits following the guidance contained within this policy and the appropriate regulations.

## **11.0 APPLICATION FOR RATE RELIEF**

- 11.1 Any rate payments due must be paid in accordance with the most recent bill until such time as any relief is awarded- even if an appeal is outstanding.
- 11.2 Written applications will be required on an approved application form. The form will be made available on the Councils website or a paper version will be provided when requested.
- 11.3 Applications must be accompanied by evidence as indicated in the guidance and on the application form.
- 11.4 When necessary, the ratepayer may be required to provide additional information to support their application.
- 11.5 Failure to complete the application form in full or to provide requested information will cause delays in the decision making process.

## **12.0 HOW THE APPLICATION IS PROCESSED**

- 12.1 Applications will be considered by the Accounts Team Leader. The application will be acknowledged, in writing, within 7 days of receipt.
- 12.2 Any additional information required will be requested within 14 days of receipt.
- 12.3 The Accounts Team Leader will collate all of the information required and arrange a site visit to inspect the premises, if necessary.
- 12.4 Upon consideration the Accounts Team Leader will assess the entitlement to Discretionary Relief against the policy within 21 days.
- 12.5 A recommendation will be made to the Revenues and Benefits Manager.



- 12.6 The Revenues and Benefits Manager will further consider the recommendations and request that the Assistant Directors (Finance) make a decision, based on the application and policy, to either award or refuse relief and the basis for the decision.
- 12.7 Applications that are deemed to be of sensitive or of a political nature will be referred to Cabinet for their consideration. The ratepayer will be notified in writing if this is the case.
- 12.8 Applicants should note that some of the cost of Discretionary Rate Relief is borne by the Council. In determining the level of relief to be granted the Council must consider its budgetary position and the cost to local Council Tax payers.

### **13.0 NOTIFICATION OF DECISION**

- 13.1 Successful applicants will be notified of the amount of Discretionary Rate Relief awarded by the issue of a new Rates bill. The Relief will be shown as a reduction on the bill. If the account is in credit as a result of the award, a refund will be made to the ratepayer.
- 13.2 Unsuccessful applicants will be notified, in writing, with the reasons for the decision.
- 13.3 The decision notification will include details of when the relief will cease.
- 13.4 In the case of a Section 44A reduction, the relief will automatically cease at the end of the financial year, unless otherwise notified.

### **14.0 PERIOD OF RELIEF**

- 14.1 The Council will determine the period for which relief will be granted based upon the type of organisation and circumstances involved.

### **15.0 APPLICATION TIMESCALES**

- 15.1 After 1<sup>st</sup> January, in the preceding financial year, applications will be accepted for the following financial year.
- 15.2 Applications received which request Discretionary Relief to be backdated will be considered at the discretion of the Council.
- 15.3 In accordance with the LGFA 1988, applications for Discretionary Relief must be determined within six months of the end of the financial year for which relief is being sought.

## **16.0 CANCELLATION**

- 16.1 All ratepayers in receipt of Discretionary Relief must notify the Council within 21 days of any change in circumstances that may affect their entitlement to rate relief.
- 16.2 If the Council decides to reduce or remove the Discretionary Relief awarded, the Council will notify the ratepayer and give one full financial years' notice, in writing.
- 16.3 Some changes will not be notified in writing i.e. a change to the Rateable Value will alter the Discretionary Relief proportionately- in these cases a revised bill will be issued.

## **17.0 COMPLAINTS AND APPEALS**

- 17.1 Rating law does not allow for a ratepayer to appeal a decision by the Council on Discretionary Relief. However, in the interests of natural justice it is regarded as good practice for Local Authorities to establish a mechanism to allow appeals to be heard.
- 17.2 If an aggrieved ratepayer wishes to make an appeal against a decision made under this policy, then they must write to the Revenues & Benefits Manager within 14 days of notification of the refusal.
- 17.3 The appeal will then be considered by the Assistant Director (Finance) who will refer the appeal to the Head of Paid Service for consideration.
- 17.4 The decision of the Head of Paid Service will be notified in writing and will be final.
- 17.5 Rates will remain payable as notified.

**A large print version of this document is available on request**



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