



Non Domestic Rates Discretionary Relief Policy

For Charity and Non-Profit Making
Organisations

Please ensure that this is updated each time the document is edited.

Reviewed by:	Amendments Made:	Date:
Revenues Team Manager	Creation of discretionary rate relief policy – Version 1.0	Agreed by CP&R 9 November 2017
Revenues Team Manager	Amendment to Corporate branding Inclusion of item 15 – additional reliefs available (all statutory)	Agreed by Deputy S151 Officer 29 June 2021
Revenues Manager	Inclusion of below items at Appendix D <ul style="list-style-type: none"> • Retail Rate Relief 2019/20 and 2020/21 • Expanded Retail, Leisure and Hospitality Covid 19 for 2020/21 • Expanded Retail, Leisure and Hospitality Covid 19 for 2021/22 • Expanded Retail, Leisure and Hospitality for 2022/23 • Retail, Hospitality and Leisure Relief for 2023/24 • Mandatory Relief in more detail 	Agreed by S151 Officer

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1. **Background**

- 1.1 This policy sets out the Council's intentions for dealing with discretionary rate relief applications and has been designed to ensure that all customers making an application for rate relief are treated in a fair, consistent and equal manner.

- 1.2 The provisions for awarding discretionary relief are set out in Sections 43,45, 47 and 48 of the Local Government Finance Act 1988, as amended by the Localism Act 2011 and the Non-Domestic Rate (Discretionary Rate Relief) Regulations 1989 (SI 1989/1059). These provisions allow all authorities to grant discretionary rate relief in any circumstances where the Council feels it is reasonable to do so having regard to the interests of the Council Taxpayers of the district.
- 1.3 This policy embodies and supports some of the key themes and priorities of the council being open for business, putting people first and providing excellent value for money services.
- 1.4 The policy has been written to:
- Demonstrate how West Lindsey District Council will use its discretionary powers to grant relief
 - Determine guidelines for the factors to be considered when making a decision to award relief
 - Establish an appropriate appeals procedure for customers dissatisfied with a decision
 - Safeguard the interest of local council taxpayers by ensuring that funds allocated in respect of relief are used in the most effective and economic way
- 1.5 The cost of awarding discretionary rate relief is now split between central Government, billing authorities and major preceptors on a fixed percentage basis. At West Lindsey the split is as below:

Central Government	50%
West Lindsey District Council	40%
Lincolnshire County Council	10%

- 1.6 Addendums to this Policy will include time limited specific local discretionary rate relief schemes.

2. Criteria used in the decision making process

- 2.1 The criteria to be used in deciding whether or not to award discretionary rate relief are based on assessing how an organisations work helps achieve the Council's key themes and how they meet the community needs for services and facilities.
- 2.2 Discretionary rate relief can be awarded under the following headings:
- Charities and Kindred Organisations
 - Community Amateur Sport Clubs
 - Rural Area
- 2.3 It is possible for a voluntary organisation to apply for 100% discretionary rate relief and for registered charities entitled to the mandatory 80% relief to apply for the additional 20% discretionary relief 'top up' if they meet the eligibility criteria.
- 2.4 Every application will be considered on an individual basis.
- 2.5 The Council will need to be satisfied that value for money is being provided to the taxpayers of West Lindsey and in making awards consideration will be

given to the financial impact on the Council and whether this is an organisation already funded by the Council.

- 2.6 Relief may be refused if it is determined that the cost to the taxpayers outweighs the benefit that will be gained by the award of the relief.
- 2.7 The finances of the organisation will be examined prior to any award being granted.
- 2.8 Organisations that meet the qualifying criteria for small business rates relief will not be considered for discretionary rate relief until they have applied for small business rate relief. This will reduce the financial contribution on the authority.

3. Organisations not eligible for Discretionary Rate Relief

3.1 Discretionary relief cannot be given in respect of a hereditament, where all or part of it is occupied (otherwise than as a trustee) by:-

- A billing authority;
- A precepting authority other than charter trustees; or
- A functional body, within the meaning of the **Greater London Authority Act 1999**.

3.2 In addition, under this policy, the following organisations will not normally qualify for discretionary rate relief and these include: Housing Associations, Leisure Trusts, Voluntary Schools, Academies, Colleges and Universities or similar. This is because they have access to other funding streams

4 Mandatory Rate Relief

4.1 Charities and Kindred Organisations

The conditions to be satisfied before a billing authority can consider awarding Discretionary relief on an occupied hereditament are that:-

- The ratepayer is a charity or trustees for a charity and the hereditament is wholly or mainly used for charitable purposes; or
- The ratepayer is an organisation which is not established or conducted for profit and whose main objectives are charitable and they are either:
 - established for philanthropic or religious purposes or
 - concerned with education, social welfare, science, literature or the fine arts or
 - occupied as a club or society

4.2 Community Amateur Sport Clubs

Discretionary relief can be awarded to a Community Amateur Sports Club (CASC) that is already in receipt of mandatory relief. Where mandatory relief has been awarded the council may pay a 'top up' resulting in up to 100% relief being awarded.

4.3 Rural Areas

Discretionary relief may be awarded where the rateable value of the hereditament at the beginning of the financial year concerned does not exceed the prescribed rateable value. The amount prescribed for England is currently £16,500 and it is not anticipated this will increase in the near future.

Where mandatory relief has been awarded the council may pay a 'top up' resulting in up to 100% relief being awarded.

5. Levels of Discretionary Rate Relief

See Appendix A

6. Applying for Discretionary Rate Relief

- 6.1 Business rate payments remain legally due and payable in accordance with the most recent bill until such time as any rate relief is awarded.
- 6.2 In order to claim Discretionary Rate Relief, the ratepayer must provide the Council with all of the information necessary to consider the application. An application form is appended to this document at Appendix B.
- 6.3 Applications may only be made by the ratepayer personally or, where the ratepayer is a body corporate, a person authorised to act on behalf of the ratepayer.
- 6.4 Application forms will set out the evidence requirements that need to be met for a decision to be made. The Council may request any reasonable evidence in support of an application for Discretionary Rate Relief and will make such requests in writing. The ratepayer should provide the evidence within one month of the request.
- 6.5 If the ratepayer does not provide the required evidence, the Council reserves the right to either treat the application as withdrawn or to consider the application in the absence of the missing evidence which may result in relief being refused. However, the Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.
- 6.6 The Council may in any circumstances verify any information or evidence provided by the ratepayer by contacting third parties, other organisations and the ratepayer.
- 6.7 New ratepayers occupying a property part way through a financial year should apply at the time they move in. Applications for discretionary rate relief should be made within the financial year for which relief is being sought. Accepting applications made after this time will be at the discretion of the council and in any event applications have to be determined by law within six months of the end of the financial year for which relief is being sought.
- 6.8 If the applicant is a non-profit making organisation, the two most recent sets of annual accounts will need to be provided. Accounts will need to have been either audited, approved by a general meeting of the organisation (minutes of the meeting will be required) or independently verified and signed by two officers of the organisation (one of whom must be the person who has prepared them).

- 6.9 An application for Discretionary Rate Relief must be completed for each financial year, or part thereof, but the total period for which relief can be granted should not exceed 12 months unless exceptional circumstances exist. Renewal forms will be issued by the council and once returned will be checked to ensure that entitlement still exists. Where an application form is not returned the relief will not be re-awarded and the organisation will be sent a rate bill for the full charge.
- 6.10 Advice and information will be issued to all business ratepayers with their bills. It will also be available on the Council's website and from staff dealing with enquiries from ratepayers. Wherever possible we will identify any new ratepayer who may qualify under this policy and provide them with information and guidance at the earliest opportunity.

7 Decision Making Process and Administering Applications

- 7.1 The City of Lincoln/North Kesteven District Council partnership will undertake the administration of applications for Discretionary Rate Relief in accordance with the framework agreement for the provision of business rates services. Any requests for relief outside the policy provisions will be made, with recommendations, to the Section 151 Officer at West Lindsey District Council for a decision to be made.
- 7.2 Any rate relief will be awarded by means of a reduction shown on the business rate bill issued to the ratepayer. Where this puts the account in credit it will be refunded.
- 7.3 The assessment scorecard used in determining applications for Discretionary Rate Relief is listed at Appendix C.

8 Criteria Guidelines for Assessment

The organisation will need to demonstrate how its use of business property contributes to the council's priorities.

8.1 Village Halls

Village Halls are public buildings run by dedicated groups of volunteers who have responsibility for all aspects of management of the building in line with current legislation. It is recognised that village halls play important roles in their community as they provide a facility for social, recreational and cultural activity.

In recognition of the importance of village halls within rural communities top up relief will be awarded up to the sum of £2,000 per annum.

8.2 Membership/Access

- Is membership open to everyone?
We would expect membership of the organisation to be open to all sections of the community with the principle of open access. However, this would not apply where legitimate restrictions are required which relate, for

example, to ability in a sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facilities is limited.

- Is there a waiting list?
Consideration will be given as to whether there is a waiting list for residents to join.
- What are the membership fees?
Membership fees should not be at such a high level as to exclude the general public.
- Are there any other restrictions on membership?
Consideration will be given as to whether membership has restrictions and the reasons for the restriction.
- Are the facilities made available for non-members egg: schools/public sessions?
Consideration will be given as to whether non-members are able to use the facilities and whether or not there is a fee to use these facilities.
- Are the facilities aimed at a particular group?
Consideration will be given as to whether the organisation actively encourages membership from particular groups in the community eg: young people, women, older age groups, people with disabilities or from minority ethnic groups etc.
- Are the facilities well-advertised?
Consideration will be given as to whether the organisation actively advertises itself to the general public.

8.3 Provision of Facilities

- Are the facilities educational/training/sporting
Consideration will be given as to whether the organisation provides training or education for its members or schemes for particular groups to develop their skills eg: young people (scout/guide groups), people with disabilities, etc.
- Is the organisation the only one in the area?
Consideration will be given as to whether this is the only organisation providing such facilities in its area or if others provide similar.
- Are there licensed facilities on site?
The mere existence of bar facilities on site will not in itself be a reason for not granting relief, but the main purpose of the organisation will be examined.
Where an alcohol licence exists consideration will be given into how much additional revenue the facility raises for the organisation.
The intention of this paragraph is to prevent full discretionary rate relief being granted in circumstances where an organisation's members have regular access to licensed bar facilities.

8.4 Additional Information

- Is membership predominately from the residents of West Lindsey?
Favourable consideration will be given to organisations providing services exclusively for West Lindsey residents.
- Does the organisation receive additional funding eg: grants, funding from private companies, commercial suppliers?
The financial position of the organisation will be considered and in particular its income and ability to receive additional funding through other means.
- Does the organisation receive additional funding from WLDC?
Consideration will be given into whether or not WLDC already provides funding to the organisation.

9 Period of Award

- 9.1 If discretionary relief is awarded by the billing authority, the effective date of any entitlement can be backdated to the beginning of the financial year (ie 1st April) in which the determination is made (subject to the relevant conditions being satisfied).
- 9.2 Awards will be made for a fixed period of one year ending on 31st March and ratepayers in will be advised that the relief awarded will end on this date.

10 Amount of Awards

The maximum amount of discretionary rate relief payable in respect of any premises will be £2,000 per application per annum.

11 Notification of Decision

- 11.1 The Council will inform ratepayers of the outcome of the application within 28 days of making a decision to either grant or not grant Discretionary Rate Relief.
- 11.2 The Council will notify those whose application is successful, of the following:
- The amount of rate relief awarded and their revised liability
 - The period of the award
 - A summary of the reasons for the award
 - Any requirement to notify the Council of changes in circumstances that could affect the award.
 - What happens next year
 - The appeals process, for cases where the rates payable have not been wholly remitted

- 11.3 The Council will notify those whose application is unsuccessful of the following:
- The reasons why the Council have decided not to grant an award
 - The appeals process

12 Appeals

- 12.1 Ratepayers who are aggrieved by a refusal to grant relief or by the amount of relief awarded may challenge the decision via Judicial Review, on the grounds that the Council has failed to act reasonably in exercising its discretion.
- 12.2 In keeping with good customer care practices and principles of open Government, this policy provides for an independent review of any decision to take place within sensible boundaries. If the decision is clearly in keeping with the policy intention but the grounds for review seek to challenge the policy itself, the case will be held over and considered only as part of the next normal policy review cycle. Where the application of the policy itself is being challenged, then the ratepayer concerned will be invited to give reasons why they think the decision is wrong and impartial reconsideration will then be given to their case.
- 12.3 Any appeals will be reconsidered by the Appeals Board whose decision will be final.
- 12.4 Once the Board has considered the appeal, the applicant will be informed of the decision and notified that any further appeal could only be on a point of law and this would need to be by way of judicial review to the High Court.

13 State Aid

All discretionary relief is subject to the de-minimis rule under State Aid. State Aid is the means by which the European Union regulates state funded support to businesses. This means that any business cannot receive financial support from government over the set threshold of €200,000 over 3 years. It is the business's responsibility to inform the Council if they are in receipt of Government aid through other sources.

(NB – during the Covid19 pandemic these figures did not apply)

14 Exceptions to this policy

In accordance with the Council's constitution the Section 151 Officer may determine discretionary rate relief applications which fall outside of the scope of this policy.

15 Other Reliefs available

More detail regarding mandatory and discretionary relief is detailed at Appendix D along with a number of other reliefs available to a ratepayer. These can be summarised as follows:

- Transitional Relief
- Small Business Rate Relief
- Part-occupied Relief
- Hardship Relief
- Retail Rate Relief 2019/20 and 2020/21
- Expanded Retail, Leisure and Hospitality Covid 19 for 2020/21
- Expanded Retail, Leisure and Hospitality Covid 19 for 2021/22
- Expanded Retail, Leisure and Hospitality for 2022/23
- Retail, Hospitality and Leisure Relief for 2023/24
- Mandatory Relief in more detail

Appendix A

The level or rate relief award that MAY be granted for the different categories of ratepayer.

Charities	Maximum Mandatory Rate Relief Possible	Maximum Discretionary Rate Relief Possible
Charity shops selling wholly or mainly donated goods	80%	NIL
Charities where members have regular access to licenced facilities	80%	NIL
Any charities not covered in the above categories	80%	20%
Registered Community Amateur Sports Clubs (CASCs) where members have regular access to licenced bar facilities	80%	NIL

Registered Community Amateur Sports Clubs (CASCs) with no bar on site	80%	20%
Community Centres/Community Associations and other registered charities responsible for paying rates on Community Centres and Village halls	80%	20%
Certain voluntary aided, voluntary controlled, grant and foundation schools including private schools, leisure trusts, universities, colleges and academies	80%	NIL
Local Heritage Projects	80%	20%
Essential community services eg: hospice, Samaritans where counselling services, visiting rooms etc are provided	80%	20%
Museums – if they are not occupied by a precepting authority	80%	20%
Housing Associations registered as charities	80%	NIL
Recreations community based clubs or societies eg: youth clubs, scouts, girl guides (who are not registered charities)	80%	20%

NB: Discretionary Relief is capped at £2,000 per application per annum.

Other Not for Profit making organisations	Maximum Mandatory Rate Relief Possible	Maximum Discretionary Rate Relief Possible
Philanthropic organisations that are not charities but are community based	NIL	100%
Religious organisations that are not charities but that promote an understanding of religion that leads to a greater awareness of religious differences within the community	NIL	100%
Scientific organisations that are not charities but that promote an awareness of science	NIL	100%
Literature and fine arts that are not charities but promote an awareness of literature and fine arts	NIL	100%
Training centres/training organisations that are not charities but that offer schemes for particular groups to develop their skills eg: young people or unemployed	NIL	100%
Community Centre, Community Associations, Agencies, Community Resource Centres which are not charities or conducted for profit and which occupy premises that provide a community focal point	NIL	100%
Private nurseries and day care	NIL	NIL

NB: Discretionary Relief is capped at £2,000 per application per annum.

Appendix B



Non Domestic Rate Team
PO Box 15257
Lincoln
LN5 5PQ
Telephone: (01522) 873342
Website: www.west-lindsey.gov.uk

**APPLICATION BY A REGISTERED CHARITY ORGANISATION
CLAIMING RELIEF FOR MANDATORY AND/OR DISCRETIONARY
RATE RELIEF IN RESPECT OF NON DOMESTIC RATES**

Local Government Finance Act 1988, Sections 43, 45, 47 and 48
Please complete **ALL** questions

PART A – Particulars of the charity or organisation	
Property Reference Number	
Property Address of Premises for which relief is claimed	
Name and Title of the Organisation	

Telephone Number	
Email Address	
Charity Commission Registration Number	
Date of Registration	
If exempt from registration, please state grounds	
Please give precise details of the activities carried out at the premises	
Does any other organisation use the property or part of it? If YES, please give brief details	
Please describe the charity or organisations main purpose and objectives	
How does the use of the property satisfy the objectives of the organisation?	
Name and address of the Secretary, or person to whom future correspondence should be sent	
PART B – Details of Premises	
Does the organisation own the property?	YES / NO
If NO, who is the owner of the property?	
And who is the leasee?	
Is the property empty?	YES / NO
If YES, please supply the following information:	

Was the last organisation the last occupier of the property?	YES / NO
Is it expected that this organisation will be the next occupier of the property?	YES / NO
PART C – Section(s) under which relief is being claimed	
Section 43/45 (which refers to Mandatory Relief)	YES / NO
Section 47/48 (which refers to Discretionary Relief)	YES / NO
PART D – Details of Premises (Discretionary Relief Only)	
Are the premises used solely for administration purposes? Eg: office accommodation	YES / NO
Is the property a Village Hall	YES / NO
Is the property used for the sale of goods?	YES / NO
If YES, please state the percentage of goods which are:	Donated: _____ New goods purchased for sale _____ Other (Please specify) _____ % of sales used to support the objectives of the charity _____
If YES, please state what percentage of your floor space is used for the sale of donated goods?	
If YES, please state what percentage in terms of sales is due to the sale of donated goods?	
Are all the staff voluntary?	YES / NO
PART E - Access	
Is the membership open to anyone?	YES / NO
Is there normally a waiting list to become a member?	YES / NO
Is there a membership fee payable?	YES / NO

How much is the membership fee per annum?	£
Can non-members such as schools/ public use the facilities? Please provide examples and details of charges made	YES / NO
Are the facilities aimed at a particular group? Eg: disabled, elderly, young please provide details	
How does the organisation publicise its activities?	
PART F – Provision of Facilities	
Please detail the general nature of the activities: eg sporting, educational, training etc .	
Is this the only organisations in the immediate area providing these facilities? If NO, please provide details	YES / NO
Are there licenced facilities on the premises? If YES, please provide details of the type of licence held, the frequency of the use of the bar facilities and the amount of gross income this facility raises for the organisation.	YES / NO
PART G – Other Information	
Is the membership open only to the residents of West Lindsey? If NO, please supply further information regarding membership.	YES / NO
Does the organisation receive any external funding other than voluntary fund raising eg: grant aid, funding from private companies, commercial donations? If YES, please provide details of amount and from whom	YES / NO

<p>Does the organisation receive a grant from WLDC? (this does not include specific community grants)</p> <p>If YES, please provide details</p> <p>Is there any other information you wish to provide in support of your claim?</p>	<p>YES / NO</p>
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PART H – Evidence Required in Support of Application

<p>In order to support your application for Mandatory Rate Relief, please provide copies of the following documents:</p>	<p>Constitution and Rules of Organisation <input type="checkbox"/></p> <p>Last published accounts <input type="checkbox"/></p> <p>Charity registration index slip or copy of Letter extract as supplied by the charity commissioners <input type="checkbox"/></p>
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Declaration and Privacy Notice:

Data Protection Act

Data Protection – We are asking for this information in accordance with the provisions of the Local Government Finance Act 1988 and the Data Protection Act 1998, S.29. It will be used to help us determine your liability for and collect your Business Rates. It may be shared with other sections of this Council, with other Councils and with other public bodies to determine liability for Business Rates, to collect Business Rates, to assess and collect other Taxes and Duties, to help detect and prevent fraud, to help detect and prevent crime and to carry out public duties.

Fair processing notice

This authority is under a duty to protect the public funds it administers and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information, see www.west-lindsey.gov.uk/fairprocessingnotice or email finance@west-lindsey.gov.uk

Privacy notice

You can view full details of our privacy notice on our website at: www.west-lindsey.gov.uk/privacy-notice.

Statement

Warning: Deliberately giving false information could lead to prosecution

I understand the following:

You will use the information I have provided to determine my liability for and to collect my Business Rates.

You may get information about me from, and give information about me to, other sections of the Council, with other councils and with other government departments to:

- determine liability for and collection of Business Rates
- update details for other payments due to the council
- collect other taxes and duties
- help detect and prevent fraud/crime

I declare that the information I have given on this form is complete and accurate to the best of my knowledge and I understand that West Lindsey District Council may check the information given.

Signature		Print Name	
Date (DD/MM/YY)	/ /	Capacity in which Signed	

Please return your completed form to

Non Domestic Rate Team, PO Box 1257, Lincoln, LN5 5PQ

Appendix C - Assessment Scorecard

Assessment	Details	Response	Score
Access			
1	Is the membership open to everyone?	YES	2 points
		NO	0 points
2	Is there a waiting list?	YES	0 points
		NO	2 points
3	What is the membership fee?	Under £60 per year	1 point
		Over £60 per year	0 points
4	Are there restrictions on membership?	YES	0 points
		NO	1 point
5	Are the facilities made available for non-members eg: schools/ public sessions?	YES	1 point
		NO	0 points
		With NO Fee	1 point
		With FEE	0 points
6	Are the facilities aimed at a particular group?	YES	1 point
		NO	0 points
7	Are the facilities well-advertised	YES	1 point
		NO	0 points
Provision of Facilities			
8	Are the facilities educational/training/sporting?	YES	2 points
		NO	0 points
9	Is the organisation the only one in the area?	YES	1 point
		NO	0 points
10	Are there licensed facilities on site?	YES	0 points
		NO	2 points
	Amount of gross income of bar takings – if sales total less than £2,000 per year	Less than £2,000 per year	2 points
	Amount of gross income of bar takings – if sales total more than £2,000 per year	More than £2,000 per year	0 points
Other Information			
11	Is membership predominately from WLDC?	YES	1 point
		NO	0 points

12	Does the organisation receive additional funding eg: grants, funding from private companies, commercial suppliers?	YES	0 points
		NO	1 point
13	Does the organisation receive additional funding from WLDC?	YES	0 points
		NO	1 point

Maximum Points = 20

Recommendations for amount of discretionary rate relief:

Less than 10 points	No relief
10 - 12 points	50% relief
13– 15 points	75% relief
Over 16 points	100% relief

NB:

Maximum amount in discretionary relief for all bodies is £2,000 per application per year.

Appendix D – Miscellaneous Reliefs

Transitional Relief

The provisions for awarding transitional relief are set out in Schedule 7A Local Government Finance Act 1988 and associated Statutory Instruments.

Years prior to 2023/24

A billing authority is under a statutory duty to award transitional relief (subject to certain conditions being satisfied) if a ratepayer experiences an increase in the rate payable on their assessment following a revaluation. The amount and duration of relief is prescribed in legislation. Those who experience a reduction in the rate payable following a revaluation may have this reduction phased in; the principle being that the transitional relief scheme is to be self-funding.

From 1st April 2023

The phased in reduction for the 2023 Non Domestic Rating list will be removed and ratepayers will receive the benefit of the reduction immediately. This is expected to be in place for a three year period – but may change in the future.

There are procedure notes in place for staff when administering transitional relief.

Small Business Relief

The provisions for awarding small business relief are set out in Sections 43 and 44 Local Government Finance Act 1988 and associated Statutory Instruments.

A billing authority is under a statutory duty to award small business relief (subject to certain conditions being satisfied) if a ratepayer occupies a hereditament that has a rateable value below a prescribed sum. The amount and duration of relief is prescribed in legislation. It should be noted that if the ratepayer is entitled to mandatory relief (i.e. they are a charity, Community Amateur Sports Club (CASC) or located in a rural area), they would then not qualify for small business relief.

There are procedure notes in place for staff when administering small business relief.

Part-Occupied Relief

The provisions for awarding part-occupied relief are set out in Section 44A Local Government Finance Act 1988 and associated Statutory Instruments.

A billing authority is entitled to award part-occupied relief when a hereditament is /part-occupied for a 'short-time only'. There is no definition of a 'short-time' and it is open to the billing authority as to whether relief should be awarded. There would be a full charge on both the occupied and unoccupied areas although a 3 month (or 6 month if industrial) exemption would initially apply to the unoccupied area.

There are procedure notes in place for staff when administering part-occupied relief.
Retail Rate relief 2019/20 and 2020/21

Hardship Relief

The provisions for awarding hardship relief are set out in Section 49 Local Government Finance Act 1988 and associated Statutory Instruments.

A billing authority is entitled to reduce or remit the non-domestic rate on the grounds of hardship if it is satisfied:-

- The ratepayer would sustain hardship if the authority did not do so; and
- It is reasonable for the authority to do so, having regard to the interests of persons subject to its local authority tax.

There are procedure notes in place for staff when administering hardship relief.

Retail Rate Relief 2019/20 and 2020/21*

In the Autumn Budget 2018 the Government introduced a RETAIL RELIEF which will be available for the years 2019/20 and 2020/21*

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, café's and drinking establishments.

The Government consider shops, restaurants, café's and drinking establishments to mean:

1. Hereditaments that are being used for the sale of goods to visiting members of the public:
 - a. Shops (such as florists, bakers, butchers, off licence, stationers, jewellers, chemists, hardware stores, supermarkets etc)
 - b. Charity Shops
 - c. Opticians
 - d. Post offices
 - e. Furnishing shops/ display rooms (such as carpet shops, double glazing, garage doors)
 - f. Car / Caravan show rooms
 - g. Second hand car lots
 - h. Markets
 - i. Petrol Stations
 - j. Garden centres
 - k. Art Galleries (where art is for sale/hire)
2. Hereditaments that are being used for the provision of the following services to visiting members of the public:
 - a. Hair and Beauty services (hairdressers, nail bars, tanning shops etc)
 - b. Shoe repairs/key cutting

- c. Travel agents
- d. Ticket offices eg for theatre
- e. Dry cleaners
- f. Launderettes
- g. PC/TV/domestic appliance repairs
- h. Funeral directors
- i. Photo processing
- j. DVD/Video rentals
- k. Tool hire
- l. Car hire

3. Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- a. Restaurants
- b. Takeaways
- c. Sandwich shops
- d. Coffee shops
- e. Pubs
- f. Bars

To qualify the hereditament should be wholly or mainly used as shown above, this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for a qualifying purpose will not qualify for the relief.

The list below shows some uses that are NOT considered to be retail use for the purposes of this relief.

1. Hereditaments that are used for the provision of the following services to visiting members of the public:

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

2. Hereditaments that are not reasonably accessible to visiting members of the public.

The amount of relief available for each property is calculated as approximately 33% of the balance that you would otherwise have to pay. There is no relief available for properties with rateable value greater than or equal to 51,000 and empty properties do not qualify.

The eligibility for the relief and the relief itself is assessed and calculated on a daily basis. The retail relief will be applied against the net bill after all other reliefs have been applied.

The Local Authority were reimbursed for their losses due to this retail relief under Section 31 LGFA

***Expanded Retail, Leisure and Hospitality Covid-19, for 2020/21**

Due to the impact of Covid-19 on the ability for businesses to trade, the above retail relief scheme was expanded to include the following for 2020/21 –NB -the cap on the rateable value was removed, therefore all properties would receive a full 100% exemption for 2020/21 if the property was wholly or mainly used by visiting members of the public for the following types of business :

Leisure and Hospitality

This includes
Estate/letting agents, (included for 01/04/2020-31/03/2022 only)
Recruitment agents, (included for 01/04/2020-31/03/2022 only)
Sports grounds and clubs
Museums and art galleries
Nightclubs
Sport and leisure facilities
Stately homes and historic houses
Theatres
Tourist attractions
Gyms
Wellness centres, spas, massage parlours
Casinos, gambling clubs and bingo halls
Hereditaments being uses for the assembly of visiting members of the public
Public halls
Clubhouses, clubs and institutions
Wedding Venues
Banqueting halls
Assembly rooms
Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

Hotels, Guest and boarding Houses
Holiday Homes
Caravan Parks

To qualify the hereditament should be wholly or mainly used for the above qualifying purposes. If not used wholly or mainly for the qualifying purpose they did NOT qualify for the relief

The Local Authority were reimbursed for their losses due to this retail relief under Section 31 LGFA

Expanded Retail, Leisure and Hospitality Covid-19, for 2021/22

The qualifying criteria for the Expanded Retail, Leisure and Hospitality Relief remained the same for the year 2021/22.

However the government announced further restrictions to this relief –
For April, May and Jun 2021

All businesses meeting the qualifying criteria could have a 100% exemption which would not contribute to State Aid limits.

For July 21 - March 22

All businesses meeting the qualifying criteria could have 66% rate reduction for this period with the following limits –

If the business had been mandated to close during Covid restrictions – the total amount of rate relief that the business could claim, nationally, was £2m

If the business had not been mandated to close during Covid restrictions – the total amount of rate relief that the business could claim, nationally, was £105,000.

The Local Authority were reimbursed for their losses due to this retail relief under Section 31 LGFA

Expanded Retail, Hospitality and Leisure Relief for 2022/23

The qualifying criteria for the expanded Retail, Leisure and Hospitality Relief remained the same for the year 2022/23 with the exception of the businesses shown above as having been removed from 01/04/2022.

The 2022/23 RHL provided eligible, occupied, retail, hospitality and leisure properties with a 50% relief up to a cash cap limit of £110,000 per business.

Guidance from the Government is shown below -

Eligibility for the Retail, Hospitality and Leisure Relief Scheme 2022/23

1. Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

a. they are wholly or mainly being used:

- i. as shops, restaurants, cafes, drinking establishments, cinemas or live music venues
- ii. for assembly and leisure; or
- iii. as hotels, guest & boarding premises or self-catering accommodation

2. We consider shops, restaurants, cafes, drinking establishments, cinemas and live music venues 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: hairdressers, 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

iv. Hereditaments which are being used as cinemas

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

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).

There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music. Although we would expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.

3. We consider assembly and leisure to mean:

i. Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities):

Sports grounds and clubs

Museums and art galleries

Nightclubs

Sport and leisure facilities

Stately homes and historic houses

Theatres

Tourist attractions

Gyms

Wellness centres, spas, massage parlours

Casinos, gambling clubs and bingo halls

ii. Hereditaments that are being used for the assembly of visiting members of the public:

Public halls

Clubhouses, clubs and institutions

4. We consider hotels, guest & boarding premises and self-catering accommodation to mean:

i. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

Hotels, guest and boarding houses
Holiday homes
Caravan parks and sites

5. To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. 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.

6. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. However, it is intended to be a guide for authorities as to the types of uses that the government considers for this purpose to be eligible for relief. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

7. The list below sets out the types of uses that the government does not consider to be an eligible use for the purpose of this discount. 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 discount 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, short-term loan providers, betting shops)

Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)

Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents)

Post office sorting offices

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

Retail, Hospitality and Leisure Relief for 2023/24

At the Autumn Statement on 17 November 2022 the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality and leisure properties worth around £2.1 billion in 2023/24. This will support the businesses that make our high streets and town centres a success and help them to evolve and adapt to changing consumer demands.

The 2023/24 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business

Eligibility for the Retail, Hospitality and Leisure Relief Scheme 2023/24

1. Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

a. they are wholly or mainly being used:

i. as shops, restaurants, cafes, drinking establishments, cinemas or live music venues,

ii. for assembly and leisure; or

iii. as hotels, guest & boarding premises or self-catering accommodation

2. We consider shops, restaurants, cafes, drinking establishments, cinemas and live music venues 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: hairdressers, 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

iv. Hereditaments which are being used as cinemas

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

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).

There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music. Although we would expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.

3. We consider assembly and leisure to mean:

i. Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities).

Sports grounds and clubs

Museums and art galleries

Nightclubs

Sport and leisure facilities

Stately homes and historic houses

Theatres

Tourist attractions

Gyms

Wellness centres, spas, massage parlours

Casinos, gambling clubs and bingo halls

ii. Hereditaments that are being used for the assembly of visiting members of the public.

Public halls

Clubhouses, clubs and institutions

4. We consider hotels, guest & boarding premises and self-catering accommodation to mean:

i. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

Hotels, Guest and Boarding Houses

Holiday homes

Caravan parks and sites

5. To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. 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.

6. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. However, it is intended to be a guide for authorities as to the types of uses that the government considers for this purpose to be eligible for relief. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

7. The list below sets out the types of uses that the government does not consider to be an eligible use for the purpose of this discount. 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 discount 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, short-term loan providers, betting shops)

Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)

Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents)

Post office sorting offices

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

MANDATORY RELIEF – more detail

Scope

Charities & Kindred Organisations

Where, on the day concerned, the ratepayer is a charity or trustees for a charity and the hereditament is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities), the amount of relief to be awarded is 80%. Therefore, the ratepayer would be required to pay 20%. However, the charity or kindred organisation would be entitled to apply to the billing authority for discretionary relief.

If the hereditament is unoccupied and the ratepayer is a charity or trustees for a charity, it will be exempt from having to pay any rate if it appears that when next in use, the hereditament will be wholly or mainly used for charitable purposes (whether of that charity or of that and other charities).

A charity is described as being ‘an institution or other organisation established for charitable purposes only, or any persons administering a trust established for charitable purposes only’. 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. Entry in the register is conclusive evidence that an organisation is a charity, and is proof for all purposes except challenge of that registration.

The absence of an entry in the register does not necessarily mean that the organisation concerned is not a charity, since it may be excluded from the requirement to register. These ‘excepted charities’ include:-

- The Church Commissioners and any institution administered by them.
 - Any registered society.
 - Units of the Boy Scouts Association or the Girl Guides Association (except for funds producing more than £15 per year).
 - Voluntary schools having no permanent endowment other than the school premises.
- Where there is no registration of an organisation, or it is not excepted from registration, the determination of charitable status may present some difficulty. The principles of charitable status have been set out in case law where it has been established a charity, in its legal sense, comprises four principal divisions:-
- Trusts for the relief of poverty.
 - Trusts for the advancement of religion.
 - Trusts for the advancement of education.
 - Trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.

The provisions are extended in terms of charity shops. The hereditament 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.

To determine whether the charity shop is ‘wholly or mainly’ selling donated goods, appropriate officers will undertake regular formal / recorded inspections to identify if they meet and continue to meet the criteria for 80% mandatory rate relief, using the percentage of floor space utilised as the qualifying criteria for ‘wholly or mainly’ (i.e. ‘more than half’).

Community Amateur Sports Clubs

A registered community amateur sports club (CASC) is entitled to mandatory relief at the same level as charities and kindred organisations. This includes being able to apply for discretionary relief. A CASC is defined in the Finance Act 1988 and registration forms are available from the Inland Revenue website. A CASC is deemed to be registered from a time beginning with its effective registration (even if retrospective), and ending on the effective date of termination of a registration.

The relief will operate alongside discretionary relief which is available to a CASC that has not been registered with the Inland Revenue as a CASC. As with a charity or kindred organisation, where the hereditament is unoccupied and the ratepayer is a CASC, it will be exempt from having to pay any rate if it appears that when next in use, the hereditament will be wholly or mainly used as a CASC.

Rural Areas

A scheme to help certain kinds of hereditaments situated in rural settlements was introduced on the 1 April 1998. A billing authority is required to compile and maintain a 'rural settlement list', which is to identify any settlements which:-

- Are wholly or partly within the authority's area.
- Appear to have a population of not more than 3,000 on 31 December immediately before the chargeable financial year in question.
- Are, in that financial year, wholly or partly within an area designated for the purpose (Note: with effect from 31 December 2001, the designated areas in England are all of those outside the specified urban areas).

A billing authority is not required to compile a rural settlement list in respect of any chargeable financial year if there is no such settlement complying with the above conditions in the area for that year.

Mandatory relief applies to a qualifying hereditament which is within a settlement identified in an authority's rural settlement list for the chargeable financial year where its rateable value is not, at the beginning of the year in question, more than a relevant prescribed amount. The current rateable value limits are as follows:-

- £8,500: Qualifying general stores and post offices.
- £8,500: Qualifying food shops.
- £12,500: Qualifying public houses and petrol filling stations.

The key definitions for the above types of hereditament to qualify for relief are as follows:-

• Qualifying General Store

A hereditament, or part of a hereditament, is used as a 'qualifying general store' on any day in a chargeable financial year if:-

- A trade or business consisting wholly or mainly of the sale by retail of both food for human consumption (excluding confectionary) and general household goods is carried on there; and
- Such a trade or business is not carried on in any other hereditament, or part of a hereditament, in the settlement concerned.

• Qualifying Post Office

A hereditament, or part of a hereditament, is used as a 'qualifying post office' on any chargeable day in a financial year if:-

- It is used for the purposes of the post office; and
- No other hereditament or part of a hereditament, in the settlement concerned is so used.

- **Qualifying Food Shop**

A hereditament, or part of a hereditament, is used as a 'qualifying food shop' on any chargeable day in a financial year if a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionary and excluding the supply of food in the course of catering) is carried on there.

- **Qualifying Public House**

A hereditament, or part of a hereditament, is used as a 'qualifying public house' if on any chargeable day in a financial year:-

- It is used as a public house which is defined as being premises for which a justices on-licence is in force; and
- No other hereditament or part of a hereditament, in the settlement concerned is so used.

- **Qualifying Petrol Filling Station**

A hereditament, or part of a hereditament, is used as a 'qualifying petrol filling station' if on any chargeable day in a financial year:-

- It is used as a petrol filling station which is defined as being premises from where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads; and
- No other hereditament or part of a hereditament, in the settlement concerned is so used.

Where, on the day concerned, the ratepayer would satisfy any of the above conditions, the amount of relief to be awarded is 50%. Therefore, the ratepayer would be required to pay 50%. However, the ratepayer would be entitled to apply to the billing authority for discretionary relief. As the relief is only awarded if a hereditament is occupied, no relief is applicable if the hereditament is unoccupied.

Period of Relief

If relief is awarded by the billing authority, the effective date will be backdated to when the ratepayer first met the prescribed criteria. The relief will continue until a ratepayer no longer fulfils the prescribed criteria although it is prudent for a billing authority to review relief at regular intervals.

Decision Making Process

All decisions on the award of mandatory relief to a ratepayer will be taken by officers. There is no involvement from members in the decision making process.

Appeals

Any appeal against a billing authority's decision not to award mandatory relief can represent a challenge to its application for a liability order in the Magistrate's Court.

Guidance Notes regarding Mandatory Relief

Introduction

The Department of the Environment and the Welsh Office issued a joint Practice Note in August 1990 to give guidance to authorities in England and Wales as to the criteria which they should take into consideration in the exercise of the discretion to grant rate relief. The note says that the criteria are not intended as a rigid set of rules and that it is for each authority to judge whether they are applicable in each case and what weight should be attached to them.

This Practice Note has now been supplemented by guidance issued by the Office of the Deputy Prime Minister ('Guidance on rate reliefs for charities and other non-profit making organisations) in December 2002, which particularly focuses on the situation of sports clubs. The section of the guidance note concerning sports clubs is, accordingly, reproduced below.

Practitioners should also take particular note of the advice contained in the guidance relating to circumstances where rate relief may count as 'state aid'. This is set out in the guidelines.

Advice

The Practice Note recommends that:-

- a) Authorities will wish to have readily understood policies for deciding whether or not to grant relief, and for determining the amount of relief. They should not, however, adopt a guideline or a rule which allows a case to be disposed of without any consideration as to its individual merits. Any criteria by which the individual case is judged should be made public to help interested individuals and bodies.
- b) Although there is no statutory requirement for organisations to submit applications for relief, thus not precluding authorities from taking an initiative to grant relief if it so wished, authorities should encourage organisations to give details of all the matters they wish to be taken into account, and to provide any other relevant information such as audited accounts, constitution, membership details etc.
- c) Authorities should consider notifying organisations of the reasons why relief has not been granted so that they can take steps to conform to the criteria which the authority has adopted.

Criteria

The criteria contained in the Practice Note is described only as 'examples which might be adopted', and reads as follows:-

a) Access

Is membership open to all sections of the community?

- There may be legitimate restrictions placed on membership which relate (i.e. to ability in a sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited). Clubs or organisations should not be considered if they have membership rates set at such a high level as to exclude the general community. 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 principles of open access.
- Does the organisation actively encourage membership from particular groups in the community, for example young people, women, older age groups, persons with a disability,

ethnic minorities etc.? An organisation which encouraged such membership might expect more sympathetic consideration than one which made no effort to attract members from groups which the authority considered to be particularly deserving of support.

- Are the facilities made available to people other than members (e.g. schools, casual public sessions etc.)? The wider use of facilities should be encouraged, and rate relief might be one form of recognition that an organisation was promoting its facilities more widely.

b) Provision of facilities

- Does the organisation provide training or education for its members? Are there schemes for particular groups to develop their skills (i.e. young people, the disabled, retired people)? An organisation providing such facilities might deserve more support than one which did not.
- Have the facilities available been provided by self-help or grant aid? The fact that a club uses or has used self-help for construction or maintenance or had facilities funded by grant aid might be an indicator that they were more deserving of relief.
- Does the organisation run a bar? The mere existence of a bar should not in itself be a reason for not granting relief. The authority should look at the main purpose of the organisation. In sports clubs, for example, the balance between playing and non-playing members might provide a useful guide as to whether the main purpose of the club is sporting or social activities. A social club whose main aim is to bring together people with similar interests should not be excluded from relief just because of the existence of a licensed bar.
- Does the organisation provide facilities which indirectly relieve the authority of the need to do so, or enhance and supplement those which it does provide? Authorities should not refuse relief on the grounds that an organisation is in competition with the authority itself, but should look at the broader context of the needs of the community as a whole. Provision of facilities to meet a new need, not being provided by the authority itself but identified as a priority for action, might be particularly deserving of support.

c) Other considerations

- Is the organisation affiliated to local or national organisations (i.e. local sports or arts organisations, local authorities and national representative bodies) and are they actively involved in local / national development of their interests?
- Is the membership drawn from people mainly resident in the charging authority's area? Although authorities will have in mind that 40% of the cost of any relief given will be borne by charge payers in their area, particular difficulties may arise with hereditaments which straddle local authorities' boundaries and which fall to be shown in one list. In these cases and in those where hereditaments are situated close to an authority's boundary, a proportion of the membership may come from another authority's area. Also, for geographical reasons, or because of the nature of the terrain, particular facilities may be the only ones available for a wide area. In such case, the joint use of facilities by one or more similar organisations is not uncommon. In most cases there will be a measure of reciprocity between the memberships of organisations from different areas.
- Authorities may wish to add further criteria or substitute relevant criteria which are appropriate to the furthering of their policies and the needs of the community, such as development programmes. They should also bear in mind the need to encourage new activities in the wide range of organisations for which relief from rates is available.

State Aid/ Subsidy Control

The issue of some rating reliefs being considered as qualifying as 'state aid' is now of some significance and is briefly explained in the guidance note issued by the Office of the Deputy Prime Minister in December 2002. This document, which is prefaced by the comment that it "should not be taken as exhaustive guide to the complex rules and case of EU state aid", is reproduced below, for information.

European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. Billing authorities should bear this in mind when granting discretionary rate reliefs.

Empty property and transitional reliefs are regarded as part of the determination of liability, applied equally to all ratepayers, and so are not considered to be state aid.

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 or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid, and the rules set out below will apply.

Hardship relief can also constitute state aid, as can relief under the village shop and farm diversification schemes. In practice, however, aid to village shops, most local 'commercial' charities and other small-scale local service organisations (e.g. B&Bs, small retailers, child-care facilities etc.) will not be caught by the state aid rules as long as they are independent family-owned businesses, because they are deemed incapable of affecting intra-Community trade. Any manufacturing operation, on the other hand, however small-scale, is normally deemed to be capable of affecting intra-Community trade, so rate relief for butchers and farmers for example, producing cheese, sausages, cider and other foodstuffs, would be state aid.

There are also general exceptions from the state aid rules where the aid is below a 'de minimis' level. This is 200,000 Euros, or 100,000 Euros for the road transport sector, to any one business over three years (Article 2 EC 1998/2006). The de minimis level applies to all de minimis aid received, including other Government subsidies or grants, in addition to any rate relief. There are also specific exemptions to the de minimis threshold and regard should be had to the current EC regulation.

The guidance note goes on to say that where relief does constitute state aid, it may need legal clearance from the European Commission. Authorities that are considering granting any hardship relief, charity relief or farm diversification relief which would be caught by the state aid rules and would bring total aid to the business concerned above the de minimis level, or granting any amount to businesses in the excluded sectors are advised to contact the Office of the Deputy Prime Minister, which will, if necessary, seek clearance from the European Commission. If Commission clearance is needed, it goes on; the relief should not be paid until clearance has been granted.

The guidance note, further, offers advice to authorities on questions relating to state aid, this being available from the State Aid Branch of the Department of Trade and Industry. It has also been found that a valuation methodology that favours one ratepayer against another in a similar class can be held to be State Aid.

NB- during the Covid-19 pandemic the caps on State Aid were removed and/or amended for the period during the pandemic and for the recovery afterwards. Please read the State Aid legislation which sits outside this Discretionary Policy (Also known as Subsidy Control)

**If you would like a copy of this document in large print,
audio, Braille or in another language:
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