

East Herts District Council

**National Non Domestic Rates (NNDR)
Discretionary Rate Relief Policy and Procedure**

DRAFT

2016

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1. Background

Local Authorities have the power to grant Discretionary Rate Relief to organisations that meet certain criteria. The amount of relief granted is used to reduce the amount the organisation is liable to pay in Non Domestic Rates.

The cost of the relief is shared between Central Government (50%). Herts County Council (10%) and East Herts Council (40%).

2. Legislation

The law governing the granting of Discretionary Rate Relief is found in the Local Government Finance Act 1988 and subsequent amending legislation and Section 69 of the Localism Act 2011.

3. Purpose of the Policy

The purpose of this Policy is to specify how the Council will operate its discretionary powers under the Local Government Finance Act 1988 and to indicate the factors it will consider when deciding if relief can be awarded.

Through this policy, East Herts District Council is providing a mechanism to reduce, or remove the business rate liability from such charities, non - profit making organisations, certain rural businesses and other businesses that are providing valuable facilities and services to communities within its District.

The policy is intended to provide a simple transparent process that aligns awards of discretionary rate relief with the council's corporate priorities.

4. Decision Making

The Executive will determine the type of organisation which is generally eligible to receive discretionary rate relief.

Those currently authorised are detailed on pages 10-12, along with those that will require non-key decisions.

This will be reviewed periodically. (Last reviewed December 2011).

Applications received which do not satisfy this criteria will be considered as Non-Key decisions by the Executive member for Finance.

In cases where there is no funding implication to the Council, the authority to award the relief is delegated to the Head of Revenues and Benefits services in consultation with the Executive Member for Finance and Support Services and those officers administering the scheme.

This will include the authority to determine eligibility within any guidelines provided by the funding organisation.

This is likely to occur when central Government wishes to target support to a group or class of business for a specific purpose. Examples would include Flood Relief, or short term support for economic recovery objectives.

Discretionary Rate Relief will be awarded after taking into consideration all other reliefs an organisation may qualify for.

4.1 Charitable Bodies

Mandatory relief is given to institutions, organisations or trusts established for charitable purposes in respect of property used wholly or mainly for charitable purposes. Mandatory relief is 80% of the rates chargeable.

Charitable bodies can be awarded 20% discretionary relief 'top up', but only where there is significant evidence that the charitable activities provide a significant benefit to local residents.

4.2 Non-Profit Making Organisations

Non-profit making bodies (who are ineligible for mandatory relief) can be awarded up to 100% Discretionary Rate relief.

4.3 Community Amateur Sports Clubs (CASC)

Both mandatory and discretionary relief are available to registered Community Amateur Sports Clubs (CASC). They can receive 80% mandatory rate relief and up to 20% discretionary relief. Thus, up to 100% relief may be achieved.

4.4 Rural Rate Relief

Both mandatory and discretionary relief are available for businesses in rural areas. They can receive 50% mandatory rural relief and up to 50% discretionary rural relief. Thus, up to 100% relief may be achieved.

4.5 General Rate Relief

Section 69 of the Localism Act 2011 amends the Local Government Finance Act 1988 to allow local authorities the discretion to award rate relief to all types of businesses.

East Herts District Council has the discretion to award relief where it is in the Council Tax payer's interests to do so.

Ratepayers submitting an application shall set out, as part of the application; the benefits that the ratepayer considers will accrue to the District Council Taxpayers as a result of the award.

Relief will be considered on the individual merits of each case.

4.6 Hardship Relief

Where a business is suffering hardship that has been caused through exceptional circumstances the Council can grant discretionary relief. When considering an application the Council will require some form of financial statement. Audited accounts are preferred, but if these are not available, other documents such as bank statements or cash books etc may be accepted. In the case of an individual, the Council may also require a statement of means.

To back up an application the Council will also need to know what exceptional circumstances have led to a particular situation and why, in the applicant's view, the Council should reduce their liability.

Each application shall be determined upon its own merits.

4.7 Part occupied premises

Relief may be granted when a property is partly occupied for a temporary period. The Council has a discretion as to whether to request an apportionment of the rateable value or not from the Valuation Office agency. The amount of relief awarded is based on the apportioned rateable value as determined by the Valuation Office Agency.

The apportioned value applies to the operative period. This begins when an application is received by the Council, and ends on :

- The occupation of any of the unoccupied part of the premises
- The ending of the financial year
- The requirement of a further apportionment
- The complete occupation of the premises
- The complete vacation of the premises

Each case is considered individually. Relief may be granted where there is for example a practical difficulty in either occupying or vacating the

premises. It is not intended for all premises which temporarily become partly occupied. Awards will not usually exceed one financial year, and subsequent applications for the same hereditament are unlikely to be successful.

Favourable consideration would not normally be given (but not limited to):

- A period that has passed
- Consecutive periods
- A company moving out of the Council's area
- Where part is sublet
- Where the part occupation is likely to last more than 3 months (6 if industrial premises)
- Where part occupation is seasonal or cyclical in nature

Retrospective granting of relief where a request is made after the premises become fully occupied or fully vacated will not be granted.

Applications must be supported by a plan identifying the unoccupied areas, and these may be inspected by the Council.

5. Claiming Discretionary Rate Relief

5.1 State Aid and Reliefs

European Union competition rules generally prohibit Government subsidies to businesses.

Relief from taxes, including non-domestic rates, can constitute state aid. We need to bear this in mind when granting discretionary rate reliefs.

Any form of discretionary relief can constitute state aid, and this needs to be taken into account with any other state aid that the organisation is receiving.

Rate relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid that is above the current de minimis level.

5.2 Claim Forms

-A claim must be made on an approved application form. Applications forms can be downloaded from the Council website or can be obtained by contacting the Council

We will issue application forms on request or in circumstances where we consider an organisation may be entitled to relief.

Applications may not be needed in cases where a group or class of ratepayer are affected. This is likely to be restricted to situations where relief is granted

in response to special circumstances e.g. Flood Relief. The Head of Revenues and Benefits will determine situations when an application form is not necessary.

Any form must be completed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

A person authorised to sign on behalf of the ratepayer is:

- a partnership - a partner of the partnership;
- a trust - a trustee of that trust;
- a body corporate – a director of that body, and
- in any other case a person duly authorised to sign on behalf of the ratepayer.

5.3 Information Required

The information required will depend upon the type of relief being applied for. Where an organisation is required to provide information, this should be submitted with the application. No applications will be considered without the appropriate supporting information. Evidence required may include:

- The rules of the organisation or its Memorandum and Articles of Association.
- The last two years' audited accounts (If the organisation is a new organisation and audited accounts are not available, the organisation should provide a statement on their finances, showing the income and expenditure)
- A copy of the Business Plan describing objectives, strategies, sales, marketing and financial forecasts.

We may, in some cases, verify the information given by the organisation applying by contacting third parties and other organisations.

We may request any reasonable evidence in support of the application.

All information supplied will be dealt with in the strictest confidence.

5.4 Period of Award

All awards will be made for a set period only.

The Council will decide the period that Discretionary Rate Relief will be awarded for, dependent on the circumstances of the application.

An award of Discretionary Rate Relief at any time does not guarantee that a further award will be made at a later date even if the circumstances of the organisation have not changed.

5.5 Changes in Liability

The Council may review the award in line with any increase or decrease in liability.

6. Payment of Awards

All relief awarded will be paid to help with the Non Domestic Rate liability. We will credit the relief direct to the organisation's Non Domestic Rate account.

7. Notifications

The Council will inform the organisation applying in writing of the outcome of their application for Discretionary Rate Relief.

Where the application is not successful, the notification will provide full reasons why we have decided not to award Discretionary Rate Relief and details of the applicant's right to ask us to look at the decision again.

Where the application is successful, the notification will include the following information:-

- The period of the award
- The percentage of the rate liability awarded for that period.
- The amount of Rate Relief to be awarded for the period.
- An amended Non Domestic Rate Demand.
- The right to ask us to look again at the decision.

8. Overpayments

The Council will recover all overpayments of Discretionary Rate Relief through the organisation's Non Domestic Rate account.

9. Right of Appeal

Whilst there is no formal right of appeal, an applicant may write and tell us why they consider the decision is wrong, i.e. if they consider we have not taken all relevant information into account. Requests for a review of the decision should be submitted within one month of the date that the decision notice is issued. We will check Discretionary Rate Relief applications thoroughly and take account of any information provided by the applicant. This is called 'reconsidering' the decision.

The reconsideration will be carried out by the Section 151 officer. We will write to advise the applicant of the outcome of the reconsideration and if we are not changing the decision, we will explain why.

10. Fraud

The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for Discretionary Rate Relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where we suspect that such an offence may have occurred, the matter will be investigated in line with the Council's Enforcement Policy. This may lead to criminal proceedings being instigated.

11. Publicity

The Council will include information about Discretionary Rate Relief with Non Domestic Rate Demands and within the Non Domestic Rate Section of the Council's website.

12. Review

This policy will be reviewed periodically, taking into account Council policies and priorities and any changes in legislation.

13. Eligibility and Exclusions

13.1 General exclusions

13.1.1 The following organisations are unlikely to be granted DRR:

- Schools
- Housing associations
- Charity shops who do not operate exclusively in East Herts
- National charities
- Organisations that provide gaming facilities and/or a licensed bar as the major function in relation to the services provided
- Those that do not meet the specific objectives that the Council wishes to promote and which are set out in the Key Criteria below.
- DRR will not normally be considered for empty properties.

13.2 Key Criteria

13.2.1 The Council may grant up to 100% discretionary rate relief to those charities and other organisations where contractual commitments exist with the Council therefore alleviating the need for the Council to provide services direct and where additional costs would fall to Council tax payers.

13.2.2 The Council will consider awarding DRR to all organisations that meet the qualifying criteria. Each case will be judged on its own merits and the Council will award relief at its own discretion.

In all cases the following criteria must be satisfied by organisations wishing to claim DRR:

- i. The organisation must submit its two most recent sets of accounts in order that the Council may conduct a financial assessment.
- ii. Applications must be made annually or when otherwise requested
- iii. The organisation must demonstrate that it supports the Council's objectives or that it is a community group or an organisation providing advice or support to the residents in the District;
- iv. The organisation must provide services (indicatively a minimum of 75%) to people who live in East Herts . (Where hereditaments combine different accommodation types, organisations will need to evidence that each satisfy the above criteria.)
- v. The organisation must be accessible to all. Membership should be open to all sections of the community. Applicant organisations should operate to equal opportunities policies;
- vi. Sports clubs must not provide payments or other significant benefits to players.
- vii. The organisation must not have political affiliations.
- viii. Details of reliefs or grants from other organisations or from other Council sources must be declared.

Category of Relief	Policy from 1.4.2016
<p>20% Discretionary Charitable Relief (Top Up) is granted where 80% Mandatory Charitable Relief is applicable <i>and there is a direct benefit to the local community,</i> to the following organisations:-</p>	<ul style="list-style-type: none"> • Citizens Advice Bureaux • The Samaritans • Aged persons organisations • Disabled persons organisations • Youth associations • Village halls • Museums (regularly open to the public) • Animal Rescue (Animal Welfare) • Herts Aid -(Support for families and people suffering from AIDS) • Home Start -(Support for families with young children) • Isabel Hospice -(Charity gift shops benefiting the seriously ill) • St Elizabeth Home-(Charity gift shops benefiting the disabled) • Future Living Hertford-(Support and rehabilitation centre) • Leisure services – providing services at Grange Paddocks, Hartham, Fanshaw Pool, Leventhorpe and Ward Freeman Swimming Pool,

<p>50% Discretionary Rural Relief is granted where 50% Mandatory Rural relief is applicable <i>and there is a direct benefit to the local community,</i> to:-</p>	<ul style="list-style-type: none"> • Village post offices/stores in a designated rural area with a rateable value up to £8500. • Food shops in a designated rural area with a rateable value up to £8500.
<p>75% Discretionary Charitable relief is granted where Mandatory Charitable relief is <i>not applicable and there is a direct benefit to the local community to the following:-</i></p>	<ul style="list-style-type: none"> • Aged persons organisations • Disabled persons organisations • Youth organisations • Village halls • Museums(regularly open to the public) • Cultural societies
<p>50% Discretionary Charitable relief is granted where Mandatory Charitable relief is <i>not applicable and there is a direct benefit to the local community,</i> to the following:-</p>	<ul style="list-style-type: none"> • Playschools/playgroups, miscellaneous clubs and other organisations • Village stores in a designated rural area with a rateable value between £8500 and £16500
<p>Up to 100% general rate relief in particular where the award will directly result in attracting businesses, investment or jobs to the local area.</p>	<ul style="list-style-type: none"> • Applications considered individually as non-key decisions

<p>Up to 100% hardship relief when it is in the 'interests' of Council Tax Payers in an area <i>e.g. where the employment prospects in the area would be worsened or the amenities of an area might be reduced e.g. the loss of the only shop in the village</i></p>	<ul style="list-style-type: none"> • Applications considered individually as non-key decisions
<p>Section 44a partial occupation relief as calculated by the District Valuer</p>	<ul style="list-style-type: none"> • Each application will be looked at on an individual basis taking into account the full facts leading to the property becoming partially unoccupied for a short period of time, and will be determined as a non-key decision.
<p>In cases where there is no funding implication to the Council; For example; when the relief is fully funded by central government</p>	<ul style="list-style-type: none"> • Administered by officers in accordance with the scheme requirements specified by central government,