

East Herts District Council

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

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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 owes in Non Domestic Rates.

2. Legislation

The law governing the granting of Discretionary Rate Relief is found in Section 47 of 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.

This will be reviewed periodically. (last reviewed 14 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 Director of Finance and Support Services in consultation with the Executive Member for Finance 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 in to 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 (ineligible for mandatory relief) can be awarded up to 100%

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 the 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 aren't 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.

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 Director of Finance and Support services 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)

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.

5.6 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. 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 Director of Finance & Support Services. 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.