



# **NON-DOMESTIC RATES**

## **CHARITABLE & DISCRETIONARY**

### **RATE RELIEF POLICY**

<b>Version:</b>	<b>Final</b>
<b>Last Updated:</b>	<b>September 2013</b>

## **1) Introduction**

This policy identifies legislative (and supporting case law) to be followed to determine entitlement to rate relief to ensure: -

- full compliance with the regulations and recognised best practice in the decision and notification of applications made
- full respect for customer rights
- that proper written rules and procedures operate

## **2) Background**

Non Domestic Rates (NDR) is a national tax on non- domestic property that is levied by local councils. The basis of the amount of rates payable in any financial year in respect of a property is the multiplication of the rateable value of that property (assessed by the Valuation Office Agency) by the NDR rate multiplier (annually set by the Welsh Government).

Within the legislation there are a number of rate reliefs available, which are based on either the status of the business (whether it is a recognised charity) or the nature of the business (small businesses) that is being conducted. Generally, rates are to be paid for both occupied and unoccupied properties.

### Charitable Rate Relief

This relief is available where the ratepayer is a charity or trustees of a charity and the property is used wholly or mainly for charitable purposes. The relief was extended from April 2004 to Community Amateur Sports Clubs (CASC's) registered as such with the Inland Revenue as a club for the purposes of Schedule 18 to the Finance Act 2002, (where the property is used wholly or mainly for the purposes of that club or other such registered clubs).

The Council is obliged by law to award 80% relief from the full rates where the ratepayer is a charity or trustees of a charity and the property is used wholly or mainly for charitable purposes or is a CASC.

The cost of this scheme is met by the Welsh Government.

### Discretionary Rate Relief (DRR)

The Council can award a further 20% DRR to those charities who qualify for mandatory relief if all conditions set out in this policy are met. It can also award up to 100% DRR to other ratepayers who fall within one of the categories of organisations that the Council aims to support. These organisations and the level of relief that will be allowed are set out in part 9 of this policy.

The cost of this scheme will be partly met by the council tax payers of the County Borough.

The Localism Act 2011<sup>1</sup> amends Section 47 of the Local Government Finance Act 1988 and enables a council in Wales to reduce the business rates of any local ratepayer and not just those who could be granted discretionary rate relief under the previous scheme (detailed later). The full cost of any relief granted under the Localism Act is met by the Council and therefore it must consider whether it is in the interests of the council tax payer to award the relief applied for.

### **3) Statutory Responsibilities**

Statutory regulations specify how the Council must deal with rate relief applications. In each case, decisions must be made with reference to:

- Local Government Finance Act 1988:
  - Section 43 and Section 45 – mandatory relief
  - Section 47 – discretionary relief
  - Section 64 – definition of a charity shop
  - Section 67 (10) – definition of a charity
- Local Government and Rating Act 1997 (Schedule 3 (23))
- Non Domestic Rating (Discretionary Relief) Regulations 1989
- Charities Act 1960 (Section 4) – relates to registration of organisations
- Non Domestic Rating Contributions Regulations 1992 (Schedule 1(2 &3))
- Localism Act 2011 (Commencement No.1) (Wales) Order 2012

This legislation is supplemented by a significant number of decisions reached by the courts (case law) over the years.

All local authorities administering charitable relief claims are under a duty to: -

- Award mandatory relief if the ratepayer satisfies the criteria set out in LGFA 1998 (Sections 43 & 45)
- Consider each application for discretionary relief on its merits and not apply a 'blanket' decision
- Consider each application for discretionary rate relief made under the Localism Act 2011 on its merits and not apply a 'blanket' decision
- Notify each taxpayer about their entitlement to charitable relief

### **4) Financial Implications**

When mandatory charitable relief is awarded (at 80% of the rate liability), the full cost is met by the national 'Non Domestic Rating Pool' i.e. there is no cost to the local council tax payers.

However, when awarding discretionary relief, different funding arrangements apply (see table below), with some of the costs falling on local council tax payers and some being met by the national 'Non Domestic Rating Pool'.

Where any relief is allowed under the Localism Act 2011 the full cost is borne by the council (falling totally on local council tax payers).

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<sup>1</sup> The Localism Act 2011 (Commencement No.1) (Wales) Order 2012

Type of Relief	Max. Relief	Proportion of the Cost met by	
		Non-Domestic Rate Pool	The Council
Mandatory Rate Relief	80%	100%	0%
Top Up Discretionary Rate Relief	20%	25%	75%
Discretionary Rate Relief only	50% or 100%	90%	10%
Localism Act relief	Up to 100%	0%	100%

Discretionary relief cannot be backdated to a preceding financial year unless the Council receives an application in time to make a decision by 30<sup>th</sup> September after the end of the financial year.

## 5) Definition of a Charity

A charity is an institution or other organisation established for charitable purposes only, or any persons administering a trust for charitable purposes only.

In the majority of cases, the question of whether an organisation is a charity may be resolved by reference to the register of charities maintained by the Charity Commissioners. There are some exceptions to the register and these include:

- Church Commissioners and any institution administered by them
- Any registered society within the meaning of the Friendly Societies Act 1896-1974
- Units of the Boy Scouts Association or the Girl Guides Association
- Voluntary schools within the meaning of the Education Act 1944-1980

### Charity Shops

Local Government Finance Act 1988 (Section 64) provides that a charity shop will be entitled to mandatory relief if:

- It is wholly or mainly used for the sale of goods given to the charity and
- If the proceeds of the sale of the goods are used for the purposes of the charity

## 6) Making a Claim for Rate Relief

Applications for mandatory and discretionary relief need not be in writing and relief will commence when the organisation meets the requirements of LGFA 1988 (Sections 43 or 45). Furthermore, there is no need for any further applications and relief will stay in force until the ratepayers circumstances change.

However, the Council has a standard application form for both mandatory and discretionary relief, used to elicit all the relevant information relating to a claim. This is the Council's preferred approach. Applications can be made, if necessary, by:

- E-Mail and sending the application to [Revenues@rctcbc.gov.uk](mailto:Revenues@rctcbc.gov.uk)
- Over the telephone by ringing the Non Domestic Rating team on 01443 680748
- By visiting any One4All Centre where an advisor can provide assistance
- By completing an electronic claim form on the Council's website and sending this to [Revenues@rctcbc.gov.uk](mailto:Revenues@rctcbc.gov.uk)

## **7) Mandatory Charitable Relief - Conditions for qualification**

- a) The property is occupied by a charity or trustees of a charity and is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities)
- b) The property is occupied by a Community Amateur Sports Clubs (CASC's) registered as such with the Inland Revenue as a club for the purposes of Schedule 18 to the Finance Act 2002, where the property is used wholly or mainly for the purposes of that club or other such registered clubs

### **Definition of Objects (of the charitable organisation)**

LGFA 1988 (Section 47) states that it is sufficient for the organisation to have main objects that are charitable

### **Claiming Guidelines**

Additional rate relief will be awarded, under Section 47 of LGFA 1988 (discretionary rate relief), up to a maximum of 20%, where:

- a) The main objective or aim of the organisation claiming relief is primarily and solely for the benefit of the residents of the County Borough
- b) The premises for which relief is sought is wholly occupied and used for the main objectives of the body, which principally benefits the residents of the County Borough
- c) The charitable status of the organisation is due to an association to a national charity where the premises are mainly used by residents of the County Borough for welfare, education, religious or other charitable purpose from which they obtain an evident benefit

*Note: If the accounts of the organisation show that the income exceeds the expenditure (excluding charitable gifts, grants or donations, from charitable, benevolent or similar bodies), no additional relief will be awarded.*

## **8) Discretionary Relief - Conditions**

To provide consistency and transparency around decision making the Council has:

- Developed a policy which sets out guidelines to ensure that each application for discretionary relief is considered on its
- Developed claiming criteria and an application form so that all details that need to be taken into account are considered and which allows the Council the opportunity to make decisions based on relevant information (audited accounts, constitution, membership details)
- Undertaken to notify organisations of the reasons why relief has not been granted so that the organisation can, if it wishes, take steps to conform to the criteria that the Council has adopted for the granting of relief

## **Conditions for qualification**

1. The ratepayer is a charity or trustees of a charity and the property is wholly or mainly used for charitable purposes;
2. The hereditament is not an excepted hereditament (occupied by a Billing Authority or Precepting Authority) and all or part of it is occupied for the purposes of (1) above or more institutions or other organisations which are not established or conducted for profit and whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
3. The hereditament is not an excepted hereditament, it is wholly or mainly used for the purposes of recreation and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

## **Definition of Objects (of the organisation)**

### a) Not established or conducted for profit

A sound investment policy directed to maintaining or increasing the funds of the organisation should not be regarded as establishing or conducting a business for profit.

### b) Charitable

LGFA 1988 (Section 47) states that it is sufficient for the organisation to have main objects that are charitable

### c) Other general objectives

These are not defined, but there is a body of case law for the objectives, which the Council will use in its decision making process:-

- Philanthropic
- Religious
- Education
- Social Welfare
- Science, Literature and the Fine Arts
- Recreation

## **9) Guidelines for Awarding Discretionary Rate Relief**

In the case of organisations not entitled to mandatory relief, regard must be had to the following matters, and the appropriate level of relief awarded where appropriate.

### a) Amateur Sporting Clubs (DRR 1 /1)

Discretionary relief of 50% will be awarded if:

- Not less than 75% of the membership should reside within Rhondda Cynon Taf County Borough
- The income of the club is supplemented by bar takings, shop, cafe or similar operation, so that the takings exceed 50% of the total gross

income, the level of profits and the contribution made by the club to the sporting activities will be considered

- The club has or provides a sporting facility such as courts, pitches etc where membership is not restricted so as to discriminate against any persons

b) Amateur Sports Grounds (DRR 1/2)

Discretionary relief of 100% will be awarded to:

- Any organisation where the sporting grounds are separately rated

c) Social Clubs and Institutes (DRR 1/3)

Discretionary relief of 50% will be awarded where the purpose is social interaction and recreation, but **not** for the participation in sport or where no sporting facility is provided and:

- Not less than 75% of the membership should reside within Rhondda Cynon Taf County Borough
- The income of the club should not be supplemented by bar takings, shop, cafe or similar operation, so that the takings exceed 50% of the total gross income
- The premises or facilities should be made available to persons other than club members for not less than 20 hours per week for education, welfare or recreation

d) Community Centres or Halls (DRR 1/4)

Discretionary relief of 50% will be awarded if:

- The facilities are generally open to the public
- Any charges levied in respect of the use of the premises are reasonable
- The gross income generated by charges for the use of the premises should not exceed the outgoings by more than 10%

e) Welfare and Educational Community Centres (DRR 1/5)

Discretionary relief of 50% will be awarded if:

- The facilities are generally open to the public
- The facilities are generally available to residents of the area where the premises are situated
- The centre caters for the disabled or other disadvantaged groups by providing specialist facilities

f) Youth Organisation (DRR 1/6)

Discretionary relief of 100% will be awarded if:

- The premises are mainly used for the provision of facilities for the welfare, education, training or recreation of young persons

- The organisation encourages membership of participation in its activities from young people living in the immediate vicinity, with the aim of promoting their welfare

g) Other general objectives such as - artistic, musical and altruistic (DRR 1/7)

Discretionary relief of 50% will be awarded if:

- Training or other form of assistance in the activity is provided or encouraged
- Income generated from the performance of the sale of articles should not exceed 50% of the organisations gross income
- The income of the club should not be supplemented by bar takings, shop, cafe or similar operation, so that the takings exceed 50% of the total gross income

h) Organisations which are not a registered charity, but with charitable aims/objectives (DRR 1/8)

Where the criteria are satisfied and the financial reserves of the organisation are not considered excessive, 100% will be awarded. The criteria are as follows:

- The organisation encourages membership or provides support for particular groups, considered to be worthy of support e.g. older age groups, organisations for assisting the disabled, victims of crime or social inequity;
- The organisation provides facilities, which enhance or supplement those that could be considered to be the responsibility of the County Borough Council;
- The organisation promotes socio-economic aims e.g. "back to work" schemes, retraining schemes or the provision of banking/saving co-operatives.

**10) Localism Act 2011**

Where an application for rates relief does not meet the qualifying criteria for mandatory charitable relief (as detailed previously) then the application will be considered under the powers prescribed to The Council by the Localism Act 2011. The Act does not set out any qualifying criteria for such an application (other than the conditions stated on Page 6 of this policy in relation to discretionary rate relief) and therefore the Council will request a detailed business case from the applicant which will demonstrate that the award of a specified amount of relief from their full rates liability for a stated period, will be in the interests of the council tax payers of Rhondda Cynon Taf CBC.



Consideration will be given to but not limited to the impact of the business or organisation on:

- a) the local economy
- b) local employment rates
- c) on community assets
- d) the financial position of the business or organisation
- e) the effect of the relief on public finances
- f) the sustainability of the business or organisation
- g) whether the assistance is aligned with other support being provided by the Council, and
- h) whether other funding options have been explored.

### **11) Social Enterprise Firms (SEF's)**

A social enterprise is a business that trades to tackle social problems; improve communities; people's life chances or the environment. They are not charities (unless registered) but make and do things that earn money and make profits, which are reinvested into the enterprise. SEF's can be considered for rates relief under the Localism Act 2011.

### **12) State Aid Regulations**

All applications for discretionary rate relief either under S47 LGFA 88 or Localism Act 2011 will be subject to state aid rules and therefore this may prevent the Council making an award to certain rate payers.

### **13) Appeals**

Where an organisation is refused discretionary relief by the Council (either under LGFA 1988 Section 47 or the Localism Act 2011), as it fails to meet the criteria set out above, the Council will provide a full explanation of the reason why the application failed.

The organisation will be advised of their right of appeal against this determination, and any consequential appeal must be made in writing, to the Group Director of Corporate Services, within 28 days of the date of the date of original notification. The Appeals Committee will consider any appeal against a decision not to award rate relief.

The ratepayer's appeal must set out in detail the reasons why the organisation believes that rate relief should be allowed.