

<b>Report of:</b>	<b>Head of Finance</b>
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<b>Portfolio Leader:</b>	<b>Leader of the Council</b>
<b>Key Decision:</b>	<b>No</b>
<b>Report Track:</b>	<b>Cabinet 21<sup>st</sup> November 2013</b>

**RATE RELIEF COMMITTEE**  
**26 SEPTEMBER 2013**  
**MANDATORY AND DISCRETIONARY RATE RELIEF POLICY FROM 2014.**

**1 Purpose of Report**

- 1.1 To consider changes to be made to the Council's Business Rate Relief Framework to take effect from 1 April 2014.
- 1.2 To seek approval of the Mandatory and Discretionary Rate Relief Policy, given at Appendix A

**2 Recommendations**

- 2.1 That the contents of this reported be noted.
- 2.2 That Cabinet be requested to approve the Mandatory and Discretionary Rate Relief Policy, given at Appendix A

**3 Key Issues and Reasons for Recommendation**

- 3.1 On 21<sup>st</sup> March 2013 Cabinet resolved that applications for relief for a period after 1<sup>st</sup> April 2014, would be determined by officers, in discussion with the appropriate Portfolio Leader, but based on a framework to be determined by members.
- 3.4 In view of the changes to the administrative arrangements and to the significant changes to the way in which rate relief is now funded, it is appropriate to review the Council's policy and framework, with effect from 1<sup>st</sup> April 2014.
- 3.5 The situation was discussed at the meeting of the Rate Relief Committee on 17<sup>th</sup> June 2013. This report and draft policy, incorporates the outcome of that discussion.
- 3.6 This report and draft policy deal with the administration of;

- Mandatory Charitable Relief (under Sections 43 & 45 Local Government Finance Act 1988 and Section 64 of the Local Government Act 2003)
  - Discretionary Relief to charitable and non-profit making organisations (Section 47 Local Government Finance Act 1988)
  - Remission of Rates on the grounds of severe hardship (Section 49 Local Government Finance Act 1988)
  - Reductions in respect of partly occupied properties (under Section 44A Local Government Finance Act 1988)
- 3.7 A separate policy is currently being developed to deal with the administration of any Discretionary Discounts which the Council may wish to offer, in accordance with the Localism Act 2011, for the purpose of attracting businesses to the Cannock Chase area.

## **4 Relationship to Corporate Priorities**

- 4.1 This report supports the Council's Corporate Priorities as follows:
- (i) By the provision of rate relief to charitable, sporting, educational and other philanthropic organisations, the People, Place, Prosperity and Transformation Priorities are all supported.

## **5 Report Detail**

- 5.1 The current framework has served the Committee well and the majority of applications are awarded at the rate indicated in it.
- 5.2 The proposed policy seeks continue and enhance the current system of awarding rate relief and to facilitate members' views on changes to our framework, whilst at the same time adhering to the strict financial controls needed to protect the interests of our Council Tax payers and General Fund.
- 5.3 Individual consideration of the merits of each application is an essential part of any discretionary process and has, on occasions resulted in a different rate of relief being awarded. Opportunity exists to incorporate the outcome of previous discussions into the new framework and policy. Every application will continue to be scrutinised against the new framework and rates of relief will be varied, where appropriate.
- 5.4 The detail below describes those circumstances and how they are incorporated into the draft policy.
- 5.4.1 **Large Organisations.** Members indicated that they would expect the amount of Discretionary Relief given to a single organisation to be capped. The draft policy includes a provision that no single organisation will receive more than £3,000 per year in Discretionary Relief. This means that to Cannock Chase Council's contribution to the Discretionary Relief would not exceed £1,200 per organisation, per year. Additionally,

the Council reserves the right to decline relief applications, where it appears that sufficient alternative means of funding exist.

**5.4.2 Provision of Service.** Members indicated that they wish to apply criteria as to whether the use of the property is of direct benefit to residents of Cannock Chase area, or serves a wider geographical area. The client group most likely to receive benefit from the organisation, is a matter which the Council will consider when assessing a relief application.

**5.4.3 Availability of Service.** Members expressed concerns that some community facilities, such as village halls, are “block booked” by profit making organisations, thereby reducing their availability for community use. Discretionary Relief rules require that officers have regard to the main use of a property, when determining a relief application. Relief will therefore be declined if the private (non-qualifying) usage of such facilities exceeds the availability for community (qualifying) usage.

**5.4.4 Charity Shops.** Members indicated that they wish to apply criteria as to the proportion of use of the property which relates to the selling of donated goods, as opposed to other uses. The Draft policy states that Discretionary Relief, will only be applied to Charity Shops

- They already receive Mandatory Relief
- That the sale of to donated goods, represents at least 50% of the sales.

**5.4.5 Availability of Other Forms of Assistance.** Where other forms of assistance, or finance, are available to an organisation, Members require the organisation to pursue those before a discretionary relief application is determined.

**5.4.6 Membership of Organisations.** Membership of organisations must be open to all, and must not be discriminatory.

## **6 Implications**

### **6.1 Financial**

The cost of all Business Rate reliefs are shared amongst the District Council, the County Council, the Fire and Rescue Authority and Central Government, with Cannock Chase District Council funding 40% as a part of the rate retention and sharing rules, effective from 1<sup>st</sup> April 2013.

The 40% share will apply to all reliefs awarded in respect of rate liabilities from 1<sup>st</sup> April 2013 onwards and for any reliefs awarded from 1<sup>st</sup> April 2013 in respect of earlier liabilities.

The cost of providing Discretionary Relief to existing claimants, in accordance with this policy, following the introduction of the new Business Rates Regime is

expected to be £10,000 per year. The current budget of £15,720 will therefore be retained in respect of Discretionary Reliefs.

## **6.2 Legal**

- Mandatory Relief for Business Rates is governed by the following the Local Government Finance Act 1988 - Sections 43(5) and (6) and 45(5) and 45(6)
- Discretionary Relief is Governed by Local Government Finance Act 1988 – Sections 44A & 47 and Section 69 of the Localism Act 2011.
- Section 64 of the Local Government Act 2003 provides that from 1st April 2004 clubs registered with the Inland Revenue Sports Club Unit as Community Amateur Sports Clubs (CASCs) are entitled to the same rate relief as charities. CASCs are, therefore, entitled to mandatory rate relief of 80% and the Council has discretion to remit all or part of the remaining 20%.
- Details of the funding arrangements for Business Rates and reliefs are contained in the Non Domestic Rating (Contributions) Regulations 1992, (as amended) and Non Domestic Rating (Rates Retention) Regulations 2013.

## **6.3 Human Resources**

There are no direct implications within this report.

## **6.4 Section 17 (Crime Prevention)**

There are no direct implications within this report.

## **6.5 Human Rights Act**

There are no direct implications within this report.

## **6.6 Data Protection**

There are no direct implications within this report.

## **6.7 Risk Management**

There are no direct implications within this report.

## **6.8 Equality & Diversity**

There are no direct implications within this report.

## **6.9 Best Value**

There are no direct implications within this report.

**7 Appendices to the Report**

Appendix 1                      DRAFT Mandatory and Discretionary Rate Relief Policy.

**Previous Consideration**

**Rate Relief Committee      17<sup>th</sup> June 2013**

**Background Papers**

The full list of rate reliefs awarded by Cabinet on 21<sup>st</sup> March 2013 are available, on request, from Rob Wolfe.



**CANNOCK CHASE COUNCIL**

**MANDATORY AND DISCRETIONARY  
RATE RELIEF POLICY**

**April 2014**

## CANNOCK CHASE COUNCIL

### MANDATORY AND DISCRETIONARY RATE RELIEF POLICY

#### Introduction

This policy deals with the administration and authorisation of applications for mandatory and discretionary Non Domestic Rate Relief, in respect of rates payable from 1<sup>st</sup> April 2014 from:

- Charities
- Community Amateur Sports Clubs.
- Non-Profit making organisations.
- Occupiers of partly occupied premises.
- Organisations suffering severe hardship.

Applications for relief, in accordance with the Localism Act 2011, are outside the scope of this policy.

#### 1. Legal Background.

- 1.1 Mandatory Relief for Business Rates is governed by the following the Local Government Finance Act 1988 - Sections 43(5) and (6) and 45(5) and 45(6).
- 1.2 Discretionary Relief is Governed by Local Government Finance Act 1988 – Sections 44A & 47 and Section 69 of the Localism Act 2011.
- 1.3 Section 64 of the Local Government Act 2003 provides that from 1st April 2004 clubs registered with the Inland Revenue Sports Club Unit as Community Amateur Sports Clubs (CASCs) are entitled to the same rate relief as charities. CASCs are, therefore, entitled to mandatory rate relief of 80% and the Council has discretion to remit all or part of the remaining 20%.
- 1.4 The Council has discretion, under Section 49 Local Government Finance Act 1988 to reduce or remit all or part of the rate liability of any organisation, which in the Council's opinion, is suffering from hardship.
- 1.5 Details of the funding arrangements for Business Rates and reliefs are contained in the Non Domestic Rating (Contributions) Regulations 1992, (as amended) and Non Domestic Rating (Rates Retention) Regulations 2013.

#### 2. Mandatory Relief

- 2.1 To qualify for mandatory relief, the ratepayer must be a Community Amateur Sports Club (CASC), registered with the Inland Revenue Sports Club Unit, a charity, or trustee for a charity. The hereditament in question must be wholly or mainly used for charitable purposes.

Registration under the Charities Act 1960 is conclusive evidence of charitable status and bodies which, under the 1960 Act, are exempt from registration or are exempt charities are also eligible for mandatory relief.

### 3. **Discretionary Relief – Charitable and Non-Profit Making Organisations**

- 3.1 Discretionary relief will be considered when one or more of the following applies:-
- (a) The ratepayer is a charity or trustee for a charity and the hereditament is wholly or mainly used for charitable purposes.
  - (b) All or part of the hereditament is occupied for the purposes of one or more institutions or other organisations, none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, sciences, literature or the fine arts.
  - (c) The hereditament 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.
- 3.2 The Council cannot grant relief from rates on property, all or part of which is occupied, other than as a trustee, by a charging or precepting authority.

### 4. **Discretionary Relief – Other Organisations**

- 4.1 The Localism Act 2011, came into effect on 1<sup>st</sup> April 2012. Section 69 of the Localism Act amended Section 47 of the Local Government Finance Act 1988 to give the Council discretion to reduce the rates on any hereditament or category of hereditament, that it considers reasonable, irrespective of whether or not the occupier(s) of the property are established for profit.
- 4.2 In determining such applications, the Council will have regard for the interests of the council taxpayers in its area, as a proportion of the cost of such reductions will be borne by the General Fund of the District Council, the County Council and the Fire and Rescue Authority.
- 4.3 The Council does not have discretion to grant such reductions from rates on property, all or part of which is occupied, other than as a trustee, by a charging or precepting authority.
- 4.4 Applications for relief, in accordance with the Localism Act 2011, are outside the scope of this policy.

### 5 **Reduction or Remission of Rates on the Grounds of Hardship**

- 5.1 The Council has discretion, under Section 49 Local Government Finance Act 1988 to reduce or remit all or part of the rate liability of any organisation, which in the Council's opinion, is suffering from hardship.
- 5.2 The Council is again prevented from making such a decision in respect of property occupied by precepting or charging authorities and again must have regard to the interest of the council tax payers, in committing expenditure from its General Fund.
- 5.3 The following guidelines have been issued by the Government in order to assist Members in the consideration of hardship applications:-
- Although authorities may adopt rules for the consideration of hardship cases,

they should not adopt a blanket policy either to give or not to give relief, each case should be considered on its own merits.

- Reductions or remission of rates on grounds of hardship should be the exception rather than the rule.
- The test of "hardship" may not be confined strictly to financial hardship, all relevant factors affecting the ability of a business to meet its liability for rates should be taken into account.
- The interests of Council Tax payers in an area may go wider than direct financial interest. For example, where the employment prospects in the area would be worsened by a company going out of business or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village.
- Where the granting of relief would have an adverse effect on the financial interests of taxpayers, the case for a reduction or remission of rates payable may still, on balance, outweigh the cost to taxpayers.

5.4 Each of these criteria will be considered, by the officer determining an application for Hardship Relief.

## **6 Reductions in Respect of Partly Occupied Properties.**

6.1 Authorities have discretion, under Section 44A of the Local Government Finance Act 1988 to reduce the rates on a property which is partly occupied, for a short time only. The effect of a reduction under Section 44A would be to reduce the rates on the hereditament, to the same level as would be payable, if the unoccupied part formed a separate hereditament.

6.2 A certificate is required from the Valuation Office Agency, in these circumstances, to confirm the rateable value of the unoccupied part. Once the Valuation Office Agency has issued a certificate, relief must be awarded in accordance with it.

6.3 Every application will be considered on its own merits, but the Council will have particular regard to the effect on its General Fund, and the interests of local Council Tax payers, when considering applications from businesses and other organisations.

6.4 Other factors, to be considered include, but are not limited to:

- The reasons for the part occupation.
- The expected duration of any part occupation, and any evidence available to support that expectation.
- Previous awards of such relief to the same organisation.
- The reasonableness of the ratepayer requesting an alteration of the rating assessment from the Valuation Office Agency.

## **7 Funding of Mandatory and Discretionary Business Rate Relief**

- 7.1 The Non Domestic Rating (Rates Retention) Regulations 2013 provide that Business Rates will be shared in accordance with the following parameters

<b><u>% Shares of Net Business Rates Income</u></b>	<b><u>%</u></b>
Central Government	50%
District Council	40%
County Council	9%
Fire and Rescue Authority	1%

- 7.2 These parameters apply to all forms of relief granted, both mandatory and discretionary and have been reflected in the National Non Domestic Rates Return provided to Government, from which our receipts of Business Rate income will be estimated.
- 7.3 A budget will be allocated on an annual basis, for the funding of Discretionary Reliefs. Cabinet approval will be required for any expenditure in excess of the budget allocation.

## **8 Criteria for Assessing Eligibility for Discretionary Business Rate Relief**

The following information will summarise the above criteria that the Council has agreed to apply in assessing applications for Discretionary Relief.

### **8.1 Access**

- 8.1.1 Is membership open to all sections of the community? There may be legitimate restrictions placed on membership 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 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 principle of open access.
- 8.1.2 Does the organisation actively encourage membership from particular age groups in the community, e.g. young people, women, old age groups, persons with 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 Council considered to be particularly deserving of support.
- 8.1.3 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.

## 8.2. Provision of Facilities

- 8.2.1 Does the organisation provide training or education for its members? Are there schemes for particular groups to develop their skills, e.g. young people, the disabled, retired people? An organisation providing such facilities might deserve more support than one which did not.
- 8.2.2 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.
- 8.2.3 Does the organisation run a bar? The mere existence of a bar should not in itself be a reason for not granting relief. The Council 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.
- 8.2.4 Does the organisation provide facilities which indirectly relieve the Council of the need to do so, or enhance and supplement those which it does provide? The Council will not refuse relief on the grounds that an organisation is in competition with the Council itself, but will look at the broader context of the needs of the community as a whole. A new need, not being provided by the Council itself but identified as a priority for action, might be particularly deserving of support.

## 8.3. Other Considerations

- 8.3.1 Is the organisation affiliated to local or national organisations, e.g. local sports or arts councils, national representative bodies? i.e. are they actively involved in local/national development of their interests?
- 8.3.2 Is the membership drawn from people mainly resident in the charging authority's area? The Council will have regard to the client groups who will ultimately benefit from the service provided by the charitable organisation. As a proportion of the cost of any relief given will be borne by our Council Taxpayers relief may be reduced or declined if it is felt that the beneficiaries are predominantly residents of other areas. (For example, in cases, where hereditaments are situated close to the Council's boundary, a proportion of the membership may come from another charging authority area, and it may therefore be deemed appropriate to reduce the rate of discretionary relief).
- 8.3.4 The Council will have regard to the financial circumstances of organisations claiming discretionary relief. Relief may be declined if, in the Council's opinion, the organisation has access to alternative funding options.
- 8.3.5 No single organisation will receive Discretionary relief in excess of £3,000 in any financial year.

8.3.6 The Council will consider additional criteria as appropriate to the furthering of the Council's policies and the needs of the community.

## **9 Discretionary Business Rate Relief – Précis of Criteria**

This section précis the criteria adopted by the Council as a framework to be used in determining eligibility for discretionary rate relief under Section 47 of the Local Government Finance Act 1988. Not all the criteria listed will be applicable in every case.

### **9.1. Basic Conditions**

One or more of the following conditions should apply as regards the application:-

- The ratepayer is a charity or trustees for a charity, and the hereditament (property) is wholly or mainly used for charitable purposes.
- The hereditament is not an excepted hereditament.
- All or part of it is occupied for the purposes of one or more organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.

### **9.2 Access to Organisation**

- Is membership open to all sections of the community?
- Are there legitimate restrictions on membership, e.g. ability, facility limits?
- Are membership fees unduly high and restrictive?
- Are membership criteria consistent with the principle of open access?
- Does the organisation actively encourage membership from particular groups in the community, e.g. disabled, O.A.P.s?
- Are facilities available to non-members, e.g. schools, general public?

### **9.3 Provision of Facilities**

- Does the organisation provide training or education for its members?
- Are there training schemes for specific groups, e.g. disabled, young people?
- Have facilities been provided by self help or grant aid?
- Does the organisation run a bar? This in itself is not a reason for not granting relief.
- What is the main purpose of the organisation, e.g. playing or social?

- What is the balance between the playing and social membership?
- Does organisation provide facilities that indirectly relieve the Council of providing the facility or supplement Council facilities?

9.4. Other Considerations

- Is the organisation affiliated to local or national organisations?
- Is the membership drawn from people mainly resident in the Council's area?
- In the case of a Charity Shop, which sells both donated goods and new goods, what is the balance between qualifying and non-qualifying purposes?
- What is the financial position of the organisations claiming discretionary relief? How much reserves do they hold and does, the organisation has access to alternative funding options?
- What is the cost to local Council Tax payers of the relief? and is this cost justified by the service provided by the organisation?

**10 Administration of Mandatory & Discretionary Rate Relief Policy**

- 10.1 Applications for relief in accordance with this policy will be determined by the Head of Finance or Local Taxation and Benefits Manager, in consultation with the Portfolio Holder responsible for Non-Domestic Rates.
- 10.2 Applications must be made in writing and must be supported by the appropriate evidence to confirm the status of the organisation. The officer considering the application will be responsible for the appropriate verification of applications.
- 10.3 The Council will review all applications on an annual basis.
- 10.4 Awards of charitable relief (Mandatory and Discretionary) will ordinarily remain in payment, provided the organisation continues to satisfy the qualifying criteria, but may be ended if:
- The organisation fails to provide information reasonably requested by the Council.
  - The Council's qualifying criteria are altered and the appropriate notice, of change, is given to the organisation.
- 10.5 Awards of relief, under Section 44A, for partly occupied properties, and remission of rates under Section 49 (hardship) will be made in respect of a for a specific period of rate liability.

**11 Right of Appeal**

The amount of any award is at the discretion of the Council and the local authority may only grant relief if it would be reasonable to do so having regard to the interests of council tax payers in its area.

No formal right of appeal therefore exists, however an applicant may put in writing a request for the decision to be reviewed.

Any request for such a review must be in writing, detailing the reasons why the decision should be reviewed, and must be received within one calendar month of the above notification.

This Officer will review all the evidence held and will make a decision within 14 days of referral or as soon as practicable thereafter.

## 12 **Framework of Business Rate Relief Awards.**

The following table summarises the levels of Business Rate Relief awarded to various categories of hereditament. Regard will be paid to these relief levels, when considering any new applications.

The rates of relief may be varied, in appropriate circumstances.

No single organisation will receive Discretionary relief in excess of £3,000 in any financial year.

Type of Organisation	Mandatory Relief	Top Up Relief	Discretionary Relief	Percentage Relief
Educational Establishments	80%	0%	0%	80%
Birth Defects Foundation	80%	0%	0%	80%
Home Farm Trust Ltd	80%	0%	0%	80%
Housing 21	80%	0%	0%	80%
Advice, Support and Training Centres	80%	5%	0%	85%
Cannock Chase Community Care Committee (5C's Training)	80%	5%	0%	85%
Community Groups and Centres	80%	5%	0%	85%
Charity Shops whose sales of donated goods are 50% or more	80%	5%	0%	85%
Charity Shops whose sales of donated goods are less than 50%.	80%	0%	0%	80%
Storage	80%	5%	0%	85%
Scouts and Guides	80%	5%	0%	85%
Playing Fields	80%	5%	0%	85%
Working Men's Clubs	0%	0%	10%	10%
Other Social Clubs	0%	0%	10%	10%
Sports Clubs (without bars)	0%	0%	50%	50%
Sports Clubs (with bars)	0%	0%	10%	10%
Community Amateur Sports Clubs (CASCs)	80%	5%	0%	85%