

## **CANNOCK CHASE COUNCIL**

### **NON-DOMESTIC RATES MANDATORY AND DISCRETIONARY RELIEF**

#### **GUIDANCE FOR MEMBERS**

##### **Introduction**

The following information is intended to be a guide to members on the legal and practical factors to be considered, when determining applications for Business Rate relief.

#### **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 authority 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 authority'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 The authority to grant discretionary relief, to CASCs, Charitable Organisations, or other 'not for profit' organisations is provided for in Section 47 of the Local Government Finance Act 1988.

- 3.2 A charging authority has discretion under Section 47 to grant relief to charities in excess of 80% mandatory relief up to 100%. If relief to charities is increased above the mandatory level, Sections 43(5) and 45(5) are disapplied and the amount of relief is determined by rates determined by the Authority. This form of relief is commonly referred to as “Top-Up” relief.
- 3.3 The authority also has discretion to grant relief of up to 100% to certain other non-profit making bodies, as described below.
- 3.4 Traditionally, discretionary relief has been considered when the following two conditions are met. The first condition is that 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.
- 3.5 The second condition is that the charging authority must have taken a decision to the effect that Section 47 applies to the hereditament concerned. That is to say that the Authority has considered and determined a rate of relief, in line with its own procedures and policies.
- 3.6 Authorities do not have discretion to grant relief from rates on property, all or part of which is occupied, other than as a trustee, by a charging or precepting authority.
- 3.7 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. A Certificate is required from the valuation Office agency, in these circumstances, to confirm the rateable value of the unoccupied part.

#### **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 authority 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 authority must 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 Authorities again, do 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.

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

5.1 The authority 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 authority's opinion, is suffering from hardship.

5.2 The authority 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 Funding of Mandatory and Discretionary Business Rate Relief**

6.1 The Non Domestic Rating (Rates Retention) Regulations 2013 are currently in draft form however the overriding principle is 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%

- 6.2 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 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.

### **7.1 Access**

- 7.1.1 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.
- 7.1.2 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 authority considered to be particularly deserving of support.
- 7.1.3 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.

7.2. Provision of Facilities

- 7.2.1 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.
- 7.2.2 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.
- 7.2.3 Does the organisation run a bar? The mere existence of a bar should not in itself be a reason for not granting relief. The 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.
- 7.2.4 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. A new need, not being provided by the authority itself but identified as a priority for action, might be particularly deserving of support.

7.3. Other Considerations

- 7.3.1 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?
- 7.3.2 Is the membership drawn from people mainly resident in the charging authority's area? Although authorities will have in mind that a proportion of the cost of any relief given will be borne by the Council Taxpayers in their area, In cases, where hereditaments are situated close to an authority's boundary, a proportion of the membership may come from another charging authority 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 cases, 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 membership of organisations from different areas.
- 7.3.4 The Council may add further criteria or substitute relevant alternative criteria which are appropriate to the furthering of the Council's policies and the needs of the community.

## **8 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.

### **8.1. 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.

### **8.2 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?

### **8.3 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?

#### 8.4. Other Considerations

- Is the organisation affiliated to local or national organisations?
- Is the membership drawn from people mainly resident in the Council's area.

### 9 Framework of Business Rate Relief Awards.

9.1 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.

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	80%	5%	0%	85%
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%
Wigan Leisure & Culture Trust (WLCT)	80%	20%	0%	100%