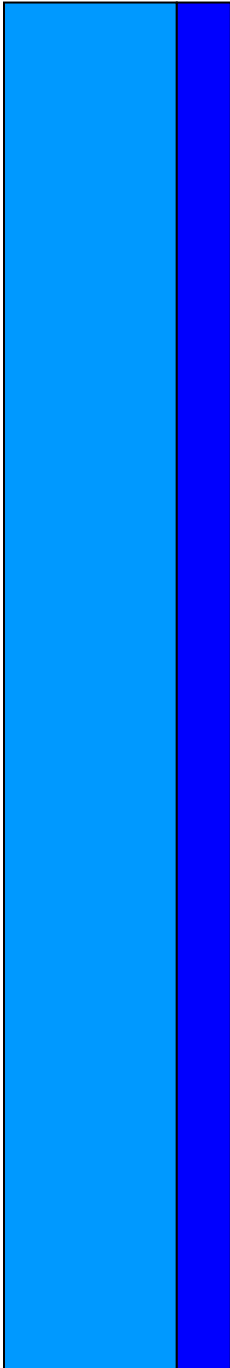


Southend-on-Sea Borough Council

Discretionary Rate Relief Policy



Discretionary Rate Relief Policy

1. Introduction

The overriding aim of the policy is to ensure that when considering whether it is appropriate to grant discretionary rate relief, the needs of the community and the interests of the Council Tax payers are taken into account, bearing in mind the Council's Corporate priorities, and how the aims of the organisation link into these. Each application will be considered carefully on its own merits within the scope of the policy

There are 2 ways in which Discretionary Rate Relief is granted:-

- to "top-up" mandatory relief already awarded to charitable organisations

This discretionary top up is 25% centrally funded and 75% funded by Southend BC

- an award of up to 100%, based on various criteria

This relief is 75% centrally funded and 25% funded by Southend BC

The following conditions must be satisfied in determining whether an organisation is charitable or non profit making

1. All or part of the rateable facility (hereditament) is occupied by one or more institution or organization which is
2. Not established or conducted for profit and
3. Whose main aims are charitable, philanthropic or religious, or are concerned with social welfare, education, science, literature or the fine arts or
4. Used wholly or mainly for recreation by a not for profit club or society
5. Discretionary relief cannot be awarded if the ratepayer is a billing or precepting authority

When deciding whether to make an award of discretionary rate relief consideration should be given to the interests of the taxpayers of Southend on Sea Borough Council, as the Council must bear a percentage of the cost (see above) of any relief granted, the remainder being borne by the Non-Domestic Rating Pool.

Mandatory relief is granted where:-

- the ratepayer of a property is a charity or the trustees of a charity and
- the property is wholly/mainly used for charitable purposes (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purposes of the charity)
- the ratepayer of a property is registered with Her Majesty's Revenues and Customs (HMRC) as a Community Amateur Sports Club (CASC)

or

in the case of Mandatory Rural Rate Relief, the property is a qualifying:-

- food shop
- general store
- post office
- public house
- petrol filling station

Under section 47 of the LGFA 1988, The Council has the discretion to award additional rate relief of up to 100% to certain non profit making organisations to reduce the liability further and the policies detailed below are to be followed when dealing with an application.

2. Funding

The amount of funding set aside to support this policy will be reviewed by the council on an annual basis as part of the budget setting process by the Grants Committee under the Support to Voluntary Sector.

3. Scope

The policy will be adhered to by all staff and Members involved with consideration of Discretionary Rate Relief applications.

4. Applications

Completed application forms will be required from each applicant and it must be demonstrated, where appropriate, how the individual, organisation or business can contribute towards the Council's Corporate priorities.

4.1 Excepted Hereditaments

Applications from excepted hereditaments can not be considered. These are properties which are occupied by a billing or precepting authority.

5. Charities

Mandatory relief is granted where the ratepayer of a property is

- a charity or the trustees of a charity and
- the property is wholly/mainly used for charitable purposes

For the purposes of this relief, the organisations do not have to be registered charities and determination of charitable status largely relies on case law which established 4 main divisions of charity:-

- relief of poverty
- advancement of religion
- advancement of education and
- other trusts beneficial to the community not falling under the other headings.

Providing the above criteria are met, 80% mandatory relief is awarded.

5.1 Criteria

Discretionary relief will be recommended if the charity:-

1	Meets local needs in the district and benefits local people	<ul style="list-style-type: none">• if the premises are used for the purposes of a national organisation the Council will not normally grant any discretionary relief• if the premises are used for a semi-national (or county-wide) organisation the extent to which the Borough and its residents benefit from the organisation must be taken into account• if the premises are used for a local organisation the full “top-up” will be awarded
2	Does not have more than 12 months spending available as “free reserves” (not legally restricted)	<ul style="list-style-type: none">• unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community

3	Evidence is provided to support the application	
4	The previous 2 years audited accounts are provided	

5.2 Approval

Recommendations are to be approved by the Revenues Manager

5.3 Legal Powers

Relief is granted in accordance with **Section 47(2)** of the Local Government Finance Act 1988.

5.4 Costs to the Council

The cost will be 75% of the amount awarded for a “top-up” to mandatory relief.

6. Charity Shops

Mandatory relief will be granted where the ratepayer for a property is

- a charity or the trustees of a charity and
- donated goods relate to more than 50% of total sales and
- the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity

Providing the above criteria are met 80% mandatory relief will be granted.

6.1 Criteria

Discretionary relief will be recommended if the charity:-

1	Meets local needs in the district and benefits local people	<ul style="list-style-type: none">• if the premises are used for the purposes of a national organisation the Council will not normally grant any discretionary relief• if the premises are used for a semi-national (or county-wide) organisation the extent to which the Borough and its residents benefit from the organisation must be taken into account• if the premises are used for a local organisation the full “top-up” will be awarded
2	Does not have more than 12 months spending available as “free reserves” (not legally restricted)	<ul style="list-style-type: none">• unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community
3	Evidence is provided to support the application	
4	The previous 2 years audited accounts are provided	

6.2 Approval

Recommendations are to be approved by the Revenues Manager

6.3 Legal Powers

Relief is granted in accordance with **Section 47(2)** of the Local Government Finance Act 1988.

6.4 Cost to the Council

The cost will be 75% of the amount awarded for a “top-up” to mandatory relief.

7. Non-Profit Organisations, Clubs and Societies

The Council has the discretion to award up to 100% Discretionary Rate Relief to organisations whose main objects are charitable or philanthropic, or concerned with education, social welfare, science, literature or fine arts or recreation. The determination of charitable status largely relies on case law which has established 4 main divisions of charity:-

- relief of poverty
- advancement of religion
- advancement of education and
- other trusts beneficial to the community and not falling under the other headings.

7.1 Criteria

Discretionary relief will be awarded if the organisation is not excepted (a billing authority or precepting authority) and:-

1	The main objects of the organisation are concerned with	<ul style="list-style-type: none">• relief of poverty• advancement of religion• advancement of education• social welfare• science• literature• fine arts or• recreation or• in other ways are beneficial to the community
2	Meets local needs in the district and benefits local people	<ul style="list-style-type: none">• if the premises are used for the purposes of a national organisation the Council will not normally grant discretionary relief• if the premises are used for a semi-national, or county-wide organisation the extent to which the Borough and its residents benefit must be taken into account and relief of up to 50%

		<ul style="list-style-type: none"> will be granted if the premises are used for a local organisation up to 100% will be awarded
3	Provides a valuable service to the community	<ul style="list-style-type: none"> which is complimentary to those services provided by or supported by the Council or which relieves the need for the Council to provide such services
4	Is open to all sections of the community	<ul style="list-style-type: none"> or access is restricted by providing a service for a specific sector of the community for justifiable reasons such as addressing inequality
5	Is able to demonstrate that the way in which it operates does not discriminate against any section of the community	<ul style="list-style-type: none"> please see 7.2 below
6	Is non-profit making	<ul style="list-style-type: none"> no high surplus of income over expenditure as a guide, no more than 12 months expenditure in unrestricted reserves unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community
7	If the organisation has licensed bar facilities	<ul style="list-style-type: none"> please see 7.3 below
8	If the organisation requires a membership or entry fee-	<ul style="list-style-type: none"> please see 7.4 below
9	Evidence is provided to support the application	
10	The previous 2 years audited accounts are provided	

7.1.1 Community Amateur Sports Clubs (CASC)

If a sports club is registered with HMRC as a CASC it will be entitled to 80% mandatory relief. The club will also be awarded 20% discretionary rate relief.

7.2 Discrimination

In order to qualify for Discretionary Rate Relief clubs must be able to show that all facilities are available to members without discrimination.

Discrimination includes indirect discrimination and encompasses:-

- Discrimination on grounds of ethnicity, nationality, sexual orientation, religion or beliefs
- Discrimination on grounds of sex, age or disability, (except as a necessary consequence of the requirements of a particular sport)

This does not prevent a club from having different classes of membership depending on:-

- The age of the member
- Whether the member is a student
- Whether the member is waged or unwaged
- Whether the member is a playing or a non-playing member
- How far from the club the member lives or
- Any restriction on the days or times when the member has access to the club's facilities

7.2.1 Sports Clubs

There are additional considerations in the case of sports clubs.

If a club effectively discriminates by only accepting members who have already reached a certain standard, rather than seeking to promote the attainment of excellence by enhancing access and the development of sporting aptitude, then it does not have an open membership policy. So, a club selecting members on the basis of existing attainment would not come within the requirements.

Clubs can refuse or revoke membership, on non-discriminatory grounds, where the membership, or continued membership of the person concerned would be likely to be contrary to the best interests of the sport or the good conduct and interests of the club.

Although clubs should be open to all without discrimination, single sex clubs may be permitted where such restrictions are not discriminatory in intent but a genuine result of physical restraints (such as changing room facilities) or the requirements of the sport

7.3 Organisations with Licensed Bar Facilities

7.3.1 Sports Clubs

Any Discretionary Rate Relief award will be aimed at the sporting activity of the club.

- If the bar income aids the overall operation and development of the organisation, this would be allowable provided it is still primarily a sports organisation and such funds are shown to provide direct support for the sporting activities
- The level of the relief awarded will be reduced if the net income from the bar and gaming machines, expressed as a percentage of total income, is 30% or greater

7.3.2 Other Organisations

- If the bar income aids the overall operation and development of the organisation, this would be allowable provided it is a minor function of the organisation and funds can be shown to provide direct support for the organisations activities.
- The level of the relief awarded will be reduced if the net income from the bar and gaming machines, expressed as a percentage of total income, is 30% or greater

7.4 Membership and Entry Fees

If the organisation requires a membership or entry fee the Council will give regard as to whether:-

- The subscription or fees are set at a high level which excludes the general community
- Fee reductions are offered for certain groups such as under 18s or over 60s
- Membership is encouraged from particular groups such as young people, older age groups, persons with disabilities or ethnic minorities
- Facilities are available to people other than members, eg schools, public sessions

7.5 Council Priorities

The Council would wish to support organisations which provide the following categories of service to the Borough's residents:-

- a) support for the disadvantaged, eg. disabled, unemployed, elderly, those with health problems, those with drugs or alcohol problems, young people
- b) support with housing needs
- c) education and training opportunities
- d) support with debt and financial management
- e) facilities for scouts, guides, youth clubs and youth groups
- f) halls and community centres
- g) sports clubs and other organisations providing recreational facilities
- h) theatres and dramatic societies

Those organisations applying for relief, whose work involves young children, young people or vulnerable adults must be able to demonstrate that appropriate checks have been carried out on staff and volunteers, and that sound child protection policies are in place.

7.6 Approval

Recommendations are to be approved by the Revenues Manager

7.7 Legal Powers

Relief is granted in accordance with **Section 47(2)** of the Local Government Finance Act 1988.

7.8 Cost to the Council

Where an organisation has already been awarded an amount of mandatory relief the cost will be 75% of the amount awarded for a “top-up”.

Where only discretionary relief is awarded the cost is 25% of the amount of discretionary relief awarded.

8. Timing of Decisions

It should be noted that if a decision on an application is not made until more than 6 months after the end of the financial year in respect of which the application is made, the decision will be invalid.

9. Notification of Decision

Applicants will be notified in writing of any decision made in respect of their applications, whether they are successful or not. The notification will include a revised bill where appropriate.

10. Rights of Appeal

Once an application has been processed the applicant will be notified in writing of the decision. As this is a discretionary power, there is no formal appeal process against the Councils decision. However unsuccessful applicants should, in the first instance, detail in writing their reasons for not agreeing with any decision, to the Revenues Manager, or ask for reconsideration in the light of any additional points that could be made to support the application.

11. Applications and Review

The Council will always consider entitlement to mandatory charitable relief before determining any discretionary awards under this policy. Mandatory relief may be awarded without an application form being completed if the Council has sufficient information.

Discretionary Relief will not be considered without a written application on the Councils prescribed form, or in a written format that provides all the necessary information required by the form.

Applicants will be asked to demonstrate a link to the Councils Corporate priorities

All applicants will need to submit a copy of the previous 2 years audited accounts together with a copy of their constitution. New ratepayers with less than 2 years trading will be required to provide business projections/financial forecasts.

Awards of Discretionary Rate Relief will, in future, be reviewed on an annual basis,

Awards will not exceed 2 years, and ratepayers will be advised of the termination date of the award to ensure that the requirements of the termination/reduction of awards as specified by the Non Domestic Rating (Discretionary Relief) Regulations 1989 (SI 1989 No 1059) are automatically met.

12.Notification of Change of Circumstances

Ratepayers are required to notify any change of circumstances which may have an effect on the award to the Revenues manager within 28 days of the change occurring, or as soon as is reasonably practicable.

December 2008