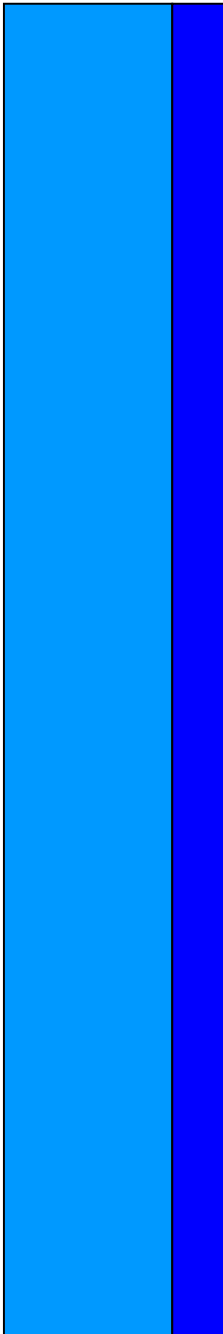


Southend-on-Sea Borough Council

Business Rates Discretionary Relief Policy

March 2014



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BUSINESS RATES DISCRETIONARY RELIEF POLICY

1. INTRODUCTION

1.1 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.

1.2 The policy has been updated to reflect the new rate reductions announced by the Government in the Autumn statement 2013 which are:-

- Newly completed empty properties will not be charged Rates for up to 18 months, for properties completed before October 2016, up to state aid limits.
- A 50% discount for up to 18 months, for ratepayers occupying certain types of retail properties that had previously been empty for at least 1 year, for two years up to the state aid limits, from 1 April 2014.
- A discount of £1,000 for shops, pubs and restaurants with a rateable value not exceeding £50,000 for two years up to the state aid limits, from 1 April 2014

These reductions are to be fully funded by Central Government.

All other reliefs in this policy will form part of the Localised Business Rates Retention Scheme which, from 1st April 2013 mean that, all costs will be shared with Central Government on a 50/50 basis.

1.3 In addition to the new rate reductions above, there are 2 ways in which Discretionary Rate Relief is granted:-

- to "top-up" mandatory relief already awarded to charitable organisations
- an award of up to 100%, based on various criteria

Both types of relief are now funded 50% by Central Government and 50% by Southend on Sea Borough Council.

1.4 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

1.5 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 50% percent of the cost (see above) of any relief granted, the remainder being borne by the Non-Domestic Rating Pool.

1.6 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

1.7 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**

2.1 Where funding falls in full or part to the Council, due to limited financial resources, they can only fund a certain amount of relief in any one year within the previously approved budget. 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.

2.1.2 Where the Government has agreed to fully fund the cost of the relief the Council will seek full reimbursement of the cost of this relief through the National Non Domestic Rate return process.

3. **SCOPE**

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

4. **APPLICATIONS**

4.1 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.

4.2 Where the Revenues Manager is satisfied that the criteria is fully met for the relief to be granted, and it is in the interest of the Council to do so, relief may be granted without a completed form.

5. **EXCEPTED HEREDITAMENTS**

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

6. **CHARITIES**

6.1 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.

6.2 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 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, or an outline business plan in the case of new businesses.	

6.2 Approval

Recommendations for the granting of any discretionary relief are to be approved by the Revenues Manager and are subject to budget constraints.

6.3 Legal Powers

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

6.4 Costs to the Council

The cost will be 50% of the amount awarded for a “top-up” to mandatory relief.

7. **CHARITY SHOPS**

7.1 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.

7.2 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 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, or an outline business plan in the case of new businesses.	

7.3 Approval

Recommendations are to be approved by the Revenues Manager

7.4 Legal Powers

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

7.5 Cost to the Council

The cost will be 50% of the amount awarded for a “top-up” to mandatory relief.

8. NON-PROFIT ORGANISATIONS, CLUBS AND SOCIETIES

8.1 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.

8.2 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
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		<ul style="list-style-type: none"> • 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 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% 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, or an outline business plan in the case of new businesses.	

8.3 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 may also be awarded 20% discretionary rate relief.

8.4 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

9. SPORTS CLUBS

- 9.1 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.
- 9.2 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.
- 9.3 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.

10. ORGANISATIONS WITH LICENSED BAR FACILITIES

10.1 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.

10.2 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.

10.3 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.

10.4 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, e.g. 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.

10.5 Approval

Recommendations are to be approved by the Revenues Manager.

10.6 Legal Powers

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

10.7 Cost to Council

Where an organisation has already been awarded an amount of mandatory relief the cost will be 50% of the amount awarded for a “top-up”.

Where only discretionary relief is awarded the cost is also 50% of the amount of discretionary relief awarded.

11. HARDSHIP RELIEF

The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1998 to provide either partial or full relief for non domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general. The following factors will also be taken into consideration:

Factors		Guideline Considerations
1	Financial Positions of the organisation	<ul style="list-style-type: none">• Hardship will often be determined on the basis of the financial position of the ratepayer’s business. In addition to looking at the business ability to pay rates the Council will also want to see evidence of future viability if help is given.
2	Do the organisations aims and purpose fit with the strategic objectives of the Council?	<ul style="list-style-type: none">• Consideration will be given as to whether the organisation addresses a need which is not being provided by the Council, but is identified as a priority for action and fits with the Council’s strategic objectives.
3	How important is the organisation to the local community?	<ul style="list-style-type: none">• An organisation applying for ‘hardship’ relief must be very important to the local community.
4	Is the same service available in the same locality?	<ul style="list-style-type: none">• Consideration may be given as to whether the service provided by the organisation is available in the same locality or within reasonable distance of the property address of the applicant.
5	Is the same service available by public transport?	<ul style="list-style-type: none">• Public transport to the nearest alternative service is not available or is very restricted.

Factors		Guideline Considerations
6	How long is the hardship likely to last for?	<ul style="list-style-type: none"> Awards are less likely to be made if the Council believes that the need may be a medium or long term need.

11.1 Cost to the Council

The cost of hardship relief is 50% to the Council and 50% to Central Government.

12. RETAIL RATE RELIEF

12.1 The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16 only.

12.2 The total maximum amount of relief available for each property for each of the years under this policy is £1,000. The amount does not vary with rateable value and there is no taper. If there is less than £1,000 outstanding on the bill, the balance will be apportioned accordingly.

There is no relief available for properties with a rateable value of more than £50,000.

12.3 Properties that will benefit from the retail rate relief will be occupied properties with a rateable value of £50,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.

12.4 We consider shops, restaurants, cafes and drinking establishments to mean:-

- (i) Properties that are being used for the sale of goods to visiting members of the public:-
- Shops (such as: florist, bakers, butchers, grocers, greengrocers; jewellers, stationers, off-licence, chemists, newsagents, hardware stores, supermarkets, etc.);
 - Charity shops;
 - Opticians;
 - Post offices;
 - Furnishing shops/display rooms (such as carpet shops, double glazing, garage doors, etc.);
 - Car/caravan show rooms;

- Second hand car lots;
- Markets;
- Petrol stations;
- Garden centres;
- Art galleries (where art is for sale/hire).

(ii) Properties that are being used for the provision of the following services to visiting members of the public:-

- Hair and beauty services (such as hair dressers, nail bars, beauty salons, tanning shops, etc.);
- Shoe repairs/ key cutting;
- Travel agents;
- Ticket offices e.g. for theatre;
- Dry cleaners;
- Launderettes;
- PC/ TV/ domestic appliance repair;
- Funeral directors;
- Photo processing;
- DVD/ video rentals;
- Tool hire;
- Car hire.

(iii) Properties that are being used for the sale of food and/ or drink to visiting members of the public:-

- Restaurants;
- Takeaways;
- Sandwich shops;
- Coffee shops;
- Pubs;
- Bars.

12.5 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide as to the types of uses that the Council considers to be retail.

12.6 As a guide, the list below sets out the types of uses that the Council does not consider to be retail:-

(i) Properties that are being used for the provision of the following services to visiting members of the public:-

- Financial services (such as banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers, etc.);
-
- Other services (such as estate agents, letting agents, employment agencies, etc.);
- Medical services (such as vets, dentists, doctors, osteopaths, chiropractors, etc.);
- Professional services (such as solicitors, accountants, insurance agents, financial advisors, tutors, etc.);
- Post office sorting office.

(ii) Properties that are not reasonably accessible to visiting members of the public.

13. NEWLY BUILT PROPERTIES

13.1 Newly completed empty properties will not be charged Rates for up to 18 months. Properties that are newly built and completed between 1 October 2013 and 30 September 2016 will be exempt from empty property rates for up to 18 months subject to state aid limits. It should be noted that large new developments, such as Supermarkets, will not qualify for this relief.

13.2 The purpose of this measure is to help stimulate construction. Construction decisions take into account the risk of paying empty property rates on newly built commercial property if the property does not become fully occupied straight away. Reducing this risk may incentivise some commercial property projects to go ahead that wouldn't otherwise, helping to stimulate the construction industry.

13.3 "Newly built and completed" is defined as properties "that are wholly or mainly" comprised of qualifying new structures and where they can be occupied.

13.4 The above conditions apply to buildings complete from 1 October 2013 and before 30 September 2016, and the relief will apply for 18 months from their completion date.

14. REOCCUPIED EMPTY RETAIL PROPERTIES

- 14.1 A 50% discount, for up to 18 months, for ratepayers occupying certain types of retail properties that had previously been empty for at least 1 year. Properties re-occupied between 1 April 2014 and 31 March 2016 inclusive will qualify for this discount subject to state aid limits.
- 14.2 The purpose of this measure is to encourage the re-occupation of empty retail premises and to support businesses taking the decision to reopen retail premises that closed previously, by helping reduce their running costs for the key first few months of trading.
- 14.3 Relevant retail premises are defined in 3.1.6 above which specifies types of shops, pubs and restaurants covered by this relief.

15. STATE AID

- 15.1 Awards such as rate relief are required to comply with the EU law on State Aid.
- 15.2 It will be necessary for each ratepayer who is awarded retail relief to complete a declaration to the Council if they have received any other De Minimis State Aid, including any other Retail Rate Relief they may have received on other property(s).
- 15.3 The declaration will include confirmation that the award of Rate Relief does not exceed the 200,000 Euros an undertaking can receive under the De Minimis Regulations EC 1407/2013.

16. COST TO THE COUNCIL

The Government, will, in line with the eligibility set out in the guidance, reimburse the Council 100% of the cost of relief awarded in sections 12, 13 and 14 above through the NDR claim process.

17. TIMING OF DECISIONS

- 17.1 It should be noted that applications received 6 months after the end of the financial year in respect of which the relief is applicable will only be reviewed in exceptional circumstances.

18. NOTIFICATION OF DECISION

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

19. RIGHTS OF APPEAL

19.1 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.

19.2 Further appeals will be considered by the Head of Finance and Resources.

20. APPLICATIONS AND REVIEW

20.1 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.

20.2 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, except in the case of those described in 13 and 14 above where the Revenues Manager will agree the relief if the criteria is met.

20.3 Applicants may be asked to demonstrate a link to the Councils Corporate priorities.

20.4 If required, 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.

20.5 Applications must be made as soon as is possible following the start of liability at premises. Applications will not be considered retrospectively following vacation or end of liability.

20.6 Awards of Discretionary Rate Relief will be reviewed on an annual basis.

20.7 Awards will not exceed 2 years at any one time, 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.

21. NOTIFICATION OF CHANGE OF CIRCUMSTANCES

- 21.1 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.

22. CHANGES AS A RESULT OF THE LOCALISM ACT 2011

- 22.1 The Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988. The changes come into effect from 1st April 2012 and extend the existing provision relating to the granting of discretionary rate relief. The existing provisions will not change, however the Act allows for the Council to grant relief in any circumstances that it feels fit, having regard for the effect on Council Tax payers in its area.
- 22.2 The Council is not proposing to use its discretion and will not operate any scheme within the new powers.